

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MATTHEW E. JACKSON, JR, <i>et al.</i> ,)	
)	
Plaintiffs,)	Civil Action No. 13-746
)	
v.)	
)	Judge Cathy Bissoon
FRANCES E. JACKSON,)	
)	Magistrate Judge Robert C. Mitchell
Defendant.)	

MEMORANDUM ORDER

This case was referred to United States Magistrate Judge Robert C. Mitchell for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Rules 72.C, 72.D and 72.G of the Local Rules for Magistrates.

On June 4, 2014, the Magistrate Judge issued a Report and Recommendation (Doc. 37) recommending that Plaintiffs' Motion for Summary Judgment (Doc. 25) be granted in part and denied apart. Specifically, the Magistrate Judge recommended that Plaintiffs be granted summary judgment as to their claim for an imposition of a constructive trust, and that an accounting be completed to determine the scope of expenditures made in connection to the property and the tax status of the property. Further, the Magistrate Judge recommended that Plaintiffs be denied summary judgment as to all other counts, and that Defendant be granted summary judgment, *sua sponte*, on Counts 1, 3, 4, 5, 6, 7, 8, 9, and 10. Service of the Report and Recommendation was made on the parties, and Plaintiffs timely filed objections (Doc. 38).

On July 23, 2014, after a *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation and the Objections thereto, the Court issued an Order (Doc. 40) overruling Plaintiffs' objections to the Report and Recommendation, with the exception of Plaintiffs' "procedural objection" that they did not receive proper notice that the

Court was considering summary judgment on Counts 3, 4, 5, 7, 8, 9, and 10. Out of an abundance of caution, the Court provided the parties fifteen (15) days to provide any evidence, either in support of, or against, the Magistrate Judge's determination with respect to Counts 3, 4, 5, 7, 8, 9, and 10.

On August 8, 2014, Plaintiffs filed additional evidence with the Court (Docs. 41 & 42) purporting to support the aforementioned claims. However, after careful consideration of this additional evidence, the Court finds that it does not undermine the Magistrate Judge's determination that Defendant shall be granted summary judgment, *sua sponte*, on Counts 3, 4, 5, 7, 8, 9, and 10.

Therefore, consistent with the Magistrate Judge's Report and Recommendation (Doc. 37), it is hereby ORDERED that: Plaintiffs' Motion for Summary Judgment (**Doc. 25**) is **GRANTED IN PART** and **DENIED IN PART**. Plaintiffs are granted summary judgment on their claim for an imposition of a constructive trust, and an accounting shall be completed to determine the scope of expenditures made in connection to the property and the tax status of the property. The parties shall participate in a settlement conference with Magistrate Judge Mitchell prior to the completion of an accounting. Plaintiffs are denied summary judgment as to all other counts.

IT IS FURTHER ORDERED that: Defendant is granted summary judgment *sua sponte* on Counts 1, 3, 4, 5, 6, 7, 8, 9, and 10. The Report and Recommendation of Magistrate Judge Mitchell, dated June 4, 2014, is hereby adopted as the opinion of the District Court.

August 15, 2014

s\Cathy Bissoon
Cathy Bissoon
United States District Judge

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