

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Harold Brooks, Clara Louise Brooks, Benjamin
Brooks, William F. Tomz,
Frances W. Tomz, Sharon Finch, Individually
and as Class Representatives,

Plaintiffs,

vs.

Arthur M. Field, Frederick Scott Pfeiffer,
Defendants.

Arthur M. Field,
Counter-Claimant,

vs.

Benjamin Brooks, Clara Louise Brooks,
Harold Brooks, Sharon Finch,
William F. Tomz, Frances W. Tomz,
Counter-Defendants,

Arthur M. Field,
Third Party Plaintiff,

vs.

Capital Investment Funding, LLC,
Third Party Defendant,

Capital Investment Funding, LLC,
Counter-Claimant,

vs.

Arthur M. Field,
Counter-Defendant.

Civil Action No.: 6:14-2267-BHH

ORDER AND OPINION

This matter is before the Court on the Report and Recommendation of United States Magistrate Judge Jacquelyn D. Austin (ECF No. 280) recommending that Plaintiffs' motion to voluntarily dismiss Pfeiffer without prejudice (ECF No. 273) be granted; that Pfeiffer's motion for summary judgment (ECF No. 169) be found as moot; and that Pfeiffer's motion for sanctions (ECF No. 193) be found as moot. After carefully reviewing the Report and Recommendation, the Court adopts the Report and Recommendation in full.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(e), DSC, this matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pre-trial proceedings and a Report and Recommendation. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. *Mathews v. Weber*, 423 U.S. 261, 270, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). The Court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

"The authority of a court to dismiss *sua sponte* for lack of prosecution has generally been considered an 'inherent power,' governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." See *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31, 82 S.Ct. 1386, 8 L.Ed.2d 734 (1962). As well as inherent authority, this Court may *sua sponte* dismiss a case for lack of prosecution under Fed. R. Civ. P. 41(b). *Id.* at 630.

Neither Plaintiff nor Defendant filed objections, and the time for doing so expired on May 16, 2016. In the absence of objections to the Magistrate Judge's Report and Recommendation, this Court is not required to provide an explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but

instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 and advisory committee's note).

After a careful review of the record, the applicable law, and the Report and Recommendation, the Court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is incorporated herein by reference.

IT IS ORDERED that Plaintiffs' motion to voluntarily dismiss Pfeiffer without prejudice (ECF No. 273) is granted, Pfeiffer's motion for summary judgment (ECF No. 169) is moot, and Pfeiffer's motion for sanctions (ECF No. 193) is moot.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

June 2, 2016
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.