

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION**

Anjay Patel,)	
)	Civil Action No. 7:16-cv-03270-JMC
Plaintiff,)	
)	
v.)	
)	
BMW Financial Services NA LLC; and)	ORDER
BMW Bank of North America,)	
)	
Defendants.)	
_____)	

Anjay Patel (“Plaintiff”), proceeding *pro se*, brought this action in state court seeking an unspecified amount of damages. (ECF No. 1-1.) BMW Financial Services NA LLC and BMW Bank of North America (“Defendants”) removed this action on September 30, 2016. (ECF No. 1.)

This matter is before the court upon review of Magistrate Judge Shiva V. Hodges’ Report and Recommendation (“Report”), filed on February 6, 2017, recommending that this court remand the action to the Court of Common Pleas for Spartanburg County on the grounds that this court lacks subject matter jurisdiction because Plaintiff stipulated that the amount in controversy does not exceed \$75,000. (*See* ECF Nos. 18, 20, 21.) The Magistrate Judge further recommended that this court impose no costs as removal was not improper given the facts then known to Defendants. (ECF No. 21.) The Report details the relevant facts and legal standards on this matter, and this court incorporates the Magistrate Judge’s recommendation herein without a recitation.

The Magistrate Judge’s Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a

recommendation to this court that has no presumptive weight—the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976).

The court reviews *de novo* only those portions of a Magistrate Judge’s Report to which specific objections are filed, and it reviews those portions not objected to—including those portions to which only “general and conclusory” objections have been made—for clear error. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005); *Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983); *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). The court may accept, reject, or modify—in whole or in part—the recommendation of the Magistrate Judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Plaintiff was advised of his right to file objections to the Report “within fourteen (14) days of the date of service” of the Report (ECF No. 21 at 3). However, Plaintiff filed no objections. In the absence of objections to the Magistrate Judge’s Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby*, 718 F.2d at 199. Furthermore, failure to timely file specific written objections to the Report results in a party’s waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

Therefore, after a thorough and careful review of the Report and the record in this case, this court finds the Report provides an accurate summary of the facts and law and **ACCEPTS** the Report and Recommendation (ECF No. 21). For the reasons articulated by the Magistrate Judge, this court **REMANDS** this action to the Court of Common Pleas for Spartanburg County and imposes no costs on Defendants. Furthermore, the remaining pending Motion to Dismiss filed by Defendants (ECF No. 10) will be more properly considered by the Court of Common

Pleas for Spartanburg County.

IT IS SO ORDERED.

March 8, 2017
Columbia, South Carolina

A handwritten signature in black ink that reads "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge