IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

JESSE SANDLIN,	)	
Plaintiff,	)	
v.	)	No. 2:15-cv-02768-JTF-dkv
CITIBANK, N.A., and CITIMORTGAGE, INC.,	)	
Defendants.	)	

ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Before the Court is Defendants', Citibank, N.A. ("Citibank") and CitiMortgage, Inc. (CityMortgage") (collectively "the Defendants"), Motion to Dismiss filed on April 21, 2016. (ECF No. 22). This case was referred to the United States Magistrate Judge for management and for all pretrial matters for determination and/or report and recommendation as appropriate. (Admin. Order 2013-05, April 29, 2013). On July 21, 2016, the Magistrate Judge issued her Report and Recommendation that Defendants' Motion to Dismiss be granted in part and denied in part. (ECF No. 24). The time for filing objections has passed, and none have been filed.

After reviewing *de novo* the Magistrate Judge's Report and Recommendation, Defendants' Motion, and the entire record, the Court hereby ADOPTS the Magistrate Judge's Report and Recommendation.

I. FINDINGS OF FACT

This Court adopts the Magistrate Judge's summary of the background and findings of facts in this case. *See* (ECF No. 24).

II. LEGAL STANDARD

A. Standard for District Court's Review of a Report and Recommendation

The district court must review dispositive motions under a *de novo* standard. More particularly, the district court determines *de novo* any part of the magistrate judge's disposition that has been properly objected to. *Baker v. Peterson*, 67 Fed. App'x 308, 310 (6th Cir. 2003). Any party that disagrees with a magistrate judge's recommendation may file written objections to the report and recommendation. *See Thomas v. Arn*, 474 U.S. 140, 142 (1985). When a party fails to timely object to a magistrate judge's recommended decision, it waives any right to further judicial review of that decision. *Id* at 149 n.7; *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

B. Standard for Motion To Dismiss

When assessing a plaintiff's claim at the Fed. R. Civ. P. 12 (b)(6) motion to dismiss stage, the Sixth Circuit has stated that a complaint must allege sufficient facts to state a plausible claim for relief, and that a reviewing court must "construe the complaint in the light most favorable to the plaintiff and accept all allegations as true." *Keys v. Humana, Inc.*, 684 F.3d 605, 608 (6th Cir. 2012). "*Pro se* complaints are held to a less stringent standard than pleadings drafted by lawyers." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). However, *pro se* litigants "are not exempt from the requirements of the Federal Rules of Civil Procedure." *Wells v. Brown*, 891 F.2d 591, 594 (6th Cir. 1989); *see also Brown v. Matauszak*, 415 F. App'x 608, 613 (6th Cir. 2011) ("[A] court cannot create a claim which [a plaintiff] has not spelled out in his pleading.") (internal quotation marks omitted).

III. ANALYSIS

Plaintiff filed a *pro se* complaint against the Defendants setting forth claims for: (1) breach of contract; (2) slander of title; (3) violation of the Tennessee Consumer Protection Act ("TCPA"); (4) declaratory relief; (5) fraudulent misrepresentation; and (6) intentional infliction of emotional distress. (ECF No. 1). Defendants filed a motion to dismiss all of Plaintiff's claims except for the breach of contract claim. (ECF Nos. 22, 23). Plaintiff did not respond to the motion to dismiss, and the time for response has expired.

The Magistrate Judge recommends that the following claims be dismissed: slander of title; violation of the TCPA; and infliction of emotional distress. As noted above, and after *de novo* review, the Court ADOPTS the Magistrate Judge's recommendations. Thus, Plaintiff's breach of contract and fraudulent misrepresentation claims, as well as Plaintiff's request for declaratory relief remain.

IV. CONCLUSION

For the reasons set forth above, the Court ADOPTS the Magistrate Judge's Report and Recommendation.

IT IS THEREFORE ORDERED that Defendants', Citibank and CitiMortgage, Motion to Dismiss is hereby GRANTED in part and DENIED in part.

IT IS SO ORDERED on this 15th day of August, 2016.

s/John T. Fowlkes, Jr.
John T. Fowlkes, Jr.
United States District Judge