

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

RICHARD K. GODFREY,

Plaintiff,

v.

WELLS FARGO & CO., WELLS FARGO  
BANK, N.A., WELLS FARGO FINANCIAL  
TEXAS, INC.,

Defendants.

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**CIVIL ACTION NO. 5:16-CV-00079-RWS**

**ORDER ADOPTING THE REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

The above-entitled and numbered civil action was referred to United States Magistrate Judge Caroline M. Craven pursuant to 28 U.S.C. § 636. The Report of the Magistrate Judge, (Docket No. 21) which contains her proposed findings of fact and recommendations for the disposition of this action, has been presented for consideration. No objections to the Report and Recommendation were filed.

Defendants filed a Motion to Dismiss and Brief in Support on November 18, 2016. Docket No. 18. Plaintiff did not file a response within the time prescribed by the Local Rules. On December 16, 2016, the Magistrate Judge ordered Plaintiff to file a response to Defendants' Motion to Dismiss on or before December 30, 2016. Docket No. 19. The Magistrate Judge's December 16, 2016 order advised Plaintiff that failure to respond may result in a recommendation that the motion be granted. *Id.*

The Magistrate Judge's December 16 Order was mailed to Plaintiff's last known address, but was returned as undeliverable. Docket No. 20. Plaintiff is a *pro se* litigant, and under the Local

Rules of the Eastern District of Texas, *pro se* litigants must provide the Court with a physical address and are “responsible for keeping the clerk advised in writing of the current physical address.” Local Rule CV-11(d). To date, Plaintiff has not updated his address with the Court or filed a response to the motion.

Defendants’ Motion to Dismiss (Docket No. 18) has been pending since November 18, 2016 with no response from Plaintiff. Local Rule CV-7(d) provides that “[a] party’s failure to oppose a motion in the manner prescribed [in the Local Rules] creates a presumption that the party does not controvert the facts set out by movant and has no evidence to offer in opposition to the motion.”

The Magistrate Judge reviewed Defendant’s motion in detail and, on January 9, 2017, issued an exhaustive Report and Recommendation addressing the substance of Defendants’ motion and recommending the motion be granted. Docket No. 21. The Clerk of the Court mailed the Report and Recommendation to Plaintiff at the address listed on the docket.

Plaintiff did not file objections to the Report and Recommendation; therefore, this Court reviews the Report and Recommendation for clear error. *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988). Upon review of the Magistrate Judge’s finding, this Court finds that the findings and conclusions of the Magistrate Judge are correct. The Court agrees with the Magistrate Judge that each of Plaintiff’s claims should be dismissed with prejudice because they are barred by the statute of limitations, not pled with adequate specificity, or not cognizable claims under Texas law. Therefore, the Court hereby **ADOPTS** the Report of the United States Magistrate Judge as the findings and conclusions of this Court. It is hereby

**ORDERED** that Defendants’ Motion to Dismiss (Docket No. 18) is **GRANTED**. It is further

**ORDERED** that Plaintiff's above-entitled and numbered cause of action is **DISMISSED**  
**WITH PREJUDICE.**

**SIGNED** this 3rd day of March, 2017.

  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE