

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

SETTLEMENT CAPITAL)	
CORPORATION, INC.)	
)	
V.)	3-07-CV-1609-O
)	
ZULAY PAGAN, SENECA ONE, LLC,)	
ROUTE 28 RECEIVABLES, LLC and)	
FIREMAN'S FUND INSURANC)	
COMPANY)	

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Pursuant to the District Court's order filed on August 5, 2008 (Doc. 108), Settlement Capital Corp., Inc.'s Motion to Dismiss Zulay Pagan's Original Counterclaim (Doc. 49) filed on May 15, 2008, was referred to the magistrate judge for recommendation. Although Pagan filed a response to the said motion (Doc. 72) and Plaintiff filed its reply (Doc. 88), Pagan's counsel of record filed an unopposed motion to dismiss her counterclaim (Doc. 41) and to withdraw as counsel (Doc. 157) on November 25, 2008.


On December 1, 2008, the District Court granted the said motion dismissing Pagan's counterclaim without prejudice, thereby rendering moot Settlement Capital Corp., Inc.'s motion to dismiss. In its order the district Court also granted Stanley, Mandel & Iola, L.L.P.'s motion to withdraw as counsel for Zulay Pagan.

RECOMMENDATION:

For the foregoing reasons it is recommended that the District Court find that Plaintiff's motion to dismiss Zulay Pagan's counterclaim has been rendered moot in light of its order dismissing the counterclaim without prejudice and accordingly deny Plaintiff's motion because the same is moot.

A copy of this recommendation shall be transmitted to counsel of record in this action and to Zulay Pagan at her last known address, 1447 Vyse Avenue, Apt. B, Bronx, N.Y. 10459-1608.

SIGNED this 3rd day of December, 2008.



WM. F. SANDERSON, JR.
UNITED STATES MAGISTRATE JUDGE

NOTICE

In the event that you wish to object to this recommendation, you are hereby notified that you must file your written objections within ten (10) days after being served with a copy of this recommendation. Pursuant to Douglass v. United Servs. Auto Ass'n, 79 F.3d 1415 (5th Cir. 1996) (en banc), a party's failure to file written objections to these proposed findings of fact and conclusions of law within such ten-day period may bar a de novo determination by the district judge of any finding of fact or conclusion of law and shall bar such party, except upon grounds of plain error, from attacking on appeal the unobjected to proposed findings of fact and conclusions of law accepted by the district court.