

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

JOSE CANDELA and MARTHA LUGO,	§	
	§	
Plaintiffs,	§	
	§	
V.	§	No. 3:17-CV-392-M-BN
	§	
BANK OF AMERICA, N.A., et al.,	§	
	§	
Defendants.	§	

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made Findings, Conclusions, and a Recommendation in this case on September 7, 2017. *See* Dkt. No. 22. No objections were filed. The District Court reviewed the proposed Findings, Conclusions, and Recommendation for plain error. Finding none, the Court ACCEPTS the Findings, Conclusions and Recommendation of the United States Magistrate Judge.

Defendants Bank of America, N.A. and Mortgage Electronic Registration System, Inc.’s Motion to Dismiss [Dkt. No. 7] is GRANTED in part and DENIED in part. All of Plaintiffs Jose Candela and Martha Lugo’s claims against Mortgage Electronic Registration System, Inc. are dismissed without prejudice, and Plaintiffs’ claims against Defendant Bank of America, N.A. for wrongful foreclosure and for breach of contract claims based on the Note and Deed of Trust are dismissed with prejudice. Plaintiffs’ claims against Defendant Bank of America, N.A. for common law fraud and for breach of contract based on the 2016 loan modification agreement and for violation of 12 C.F.R.

§ 1204.41 and 12 U.S.C. § 2605(f) and Plaintiffs' request for injunctive relief, to the extent they are based on those claims, are not dismissed. Plaintiffs' claim against Defendant Bank of America, N.A. for violation of the Texas Debt Collection Practices Act is dismissed without prejudice, with leave to amend in 21 days to replead that claim. If an amended pleading is not filed by that date, Plaintiffs' claim for violation of the Texas Debt Collection Practices Act will be dismissed with prejudice without further notice.

SO ORDERED this 29th day of September, 2017.


BARBARA M. G. LYNN
CHIEF JUDGE