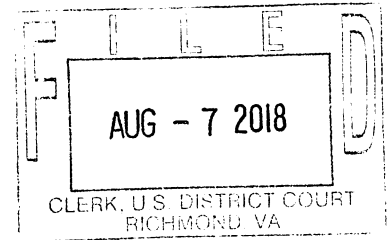


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



JONATHAN LOWE and
JENNIFER LOWE,

Plaintiffs,

v.

Civil Action No. 3:18cv126

WELLS FARGO BANK, N.A.,

Defendant.

ORDER

By ORDER (ECF No. 7) entered herein on March 16, 2018, DEFENDANT WELLS FARGO BANK, N.A.'S MOTION TO DISMISS THE AMENDED COMPLAINT (ECF No. 3) was referred to Magistrate Judge Roderick C. Young for report and recommendation.

Having reviewed the REPORT & RECOMMENDATION (ECF No. 14) entered herein on July 9, 2018, the DEFENDANT'S OBJECTIONS TO THE REPORT AND RECOMMENDATION ON DEFENDANT'S MOTION TO DISMISS THE AMENDED COMPLAINT (ECF No. 15), the PLAINTIFF'S OBJECTIONS TO JUDGE YOUNG'S REPORT AND RECOMMENDATION (ECF No. 17), the DEFENDANT'S RESPONSE IN OPPOSITION TO THE PLAINTIFFS' OBJECTIONS TO THE REPORT AND RECOMMENDATION (ECF No. 18), the PLAINTIFFS' RESPONSE TO WELLS FARGO BANK, N.A.'S OBJECTIONS TO MAGISTRATE JUDGE YOUNG'S REPORT AND RECOMMENDATION (ECF No. 19), and having considered DEFENDANT WELLS FARGO BANK, N.A.'S MOTION TO DISMISS THE AMENDED COMPLAINT (ECF No. 3), the supporting, opposing and reply memoranda, and the record and

the REPORT & RECOMMENDATION (ECF No. 14) and finding no error therein, it is hereby ORDERED that:

(1) DEFENDANT'S OBJECTIONS TO THE REPORT AND RECOMMENDATION ON DEFENDANT'S MOTION TO DISMISS THE AMENDED COMPLAINT (ECF No. 15) are overruled;

(2) PLAINTIFF'S OBJECTIONS TO JUDGE YOUNG'S REPORT AND RECOMMENDATION (ECF No. 17) are overruled;

(3) The REPORT & RECOMMENDATION (ECF No. 14) is ADOPTED on the basis of the reasoning of the REPORT & RECOMMENDATION;

(4) DEFENDANT WELLS FARGO BANK, N.A.'S MOTION TO DISMISS THE AMENDED COMPLAINT (ECF No. 3) ("Motion to Dismiss") is granted in part and denied in part as follows:

(a) The Motion to Dismiss is granted with respect to Counts I and II and, therefore, Counts I and II of the AMENDED COMPLAINT (ECF No. 1-2) are dismissed with prejudice;

(b) The Motion to Dismiss is denied with respect to Counts III;

(c) The Motion to Dismiss is denied with respect to Count IV as to the defendant's request to strike punitive damages and is granted with respect to Count IV as to the conversion claim for the assessment of flood insurance; and

(d) The Motion to Dismiss is granted with respect to Count V is denied; and

(5) An Initial Pretrial Conference is scheduled for 10:15 a.m. September 19, 2018 and the Scheduling Order and Pretrial Schedule A shall be entered herein.

Further, the Court is aware that the defendant's computer system precipitated over 600 erroneous referrals of loan modifications and consequent foreclosures. It is thus ORDERED that, by August 31, 2018, the defendant file a Statement of Position advising whether the properties and loans at issue were among those properties and loans that were subject of the computer errors and the ensuing erroneous foreclosures.

The issues are adequately addressed by the briefs and oral argument would not materially aid the decisional process.

It is so ORDERED.

_____/s/ *REP*_____
Robert E. Payne
Senior United States District Judge

Richmond, Virginia
Date: August 7, 2018.