

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

BRANCH BANKING AND TRUST COMPANY,

Plaintiff,

v. // CIVIL ACTION NO. 1:15CV147  
(Judge Keeley)

TLS, INC. WV, a West Virginia  
corporation, JEFFREY TAUBER,  
individually, BRIANA A. WIESEN,  
individually, and BITS, LLC., a  
West Virginia limited liability company

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 40] AND  
GRANTING PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT [DKT. NO. 32]

On February 10, 2016, the plaintiff, Branch Banking and Trust Company ("BB&T"), filed a motion for default judgment pursuant to Fed. R. Civ. P. 37(b)(2), citing the defendants' ongoing refusal to participate in discovery (dkt. no. 32). Notably, the defendants never responded to BB&T's motion. The Court referred this matter to United States Magistrate Judge Michael J. Aloï for initial screening and a Report and Recommendation ("R&R") in accordance 28 U.S.C. §§ 636(b)(1)(A) and 636 (b)(1)(B) and L.R. Civ. P.7.02(c).

On March 24, 2016, Magistrate Judge Aloï issued his R&R (dkt. no. 40), in which he recommended that the Court grant BB&T's motion and enter a default judgment against the defendants pursuant to Fed. R. Civ. P. Rule 37(b)(2). He cited the defendants' bad faith in refusing to participate in discovery, the prejudicial effect that their refusal has had on the plaintiff's ability to present its case, and the deterring effect that an entry of default

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judgment has on such behavior. Additionally, Magistrate Judge Alois noted that any less drastic sanctions available under Rule 37(b)(2)(A)(i) would not be effective in this case.

The R&R also specifically warned the defendants that their failure to object to the recommendation would result in the waiver of any appellate rights they might otherwise have on this issue. Id. The parties did not file any objections.<sup>1</sup> Consequently, finding no clear error, the Court **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 40), and **GRANTS** BB&T's motion for default judgment (dkt. no. 32).

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of this orders to counsel of record.

Dated: April 13, 2016.

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).