

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

JOHN KEITH SIMMERMAN,

Plaintiff,

v.

CIVIL ACTION NO. 5:11-cv-00268

MAPOTHER & MAPOTHER PSC, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

On April 21, 2011, Plaintiff, acting *pro se*, filed his Application to Proceed Without Prepayment of Fees (Document 1) and his Complaint alleging violations of the Fair Debt Collection Practices Act (15 U.S.C. § 1692, et seq.) and the Fair Credit Reporting Act (15 U.S.C. § 1681, et seq.) (Document 2). By Standing Order (Document 4) entered on April 21, 2011, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). On January 11, 2012, Plaintiff filed a Motion for Injunctive Relief (Document 6). On February 15, 2012, the Magistrate Judge submitted Proposed Findings and Recommendation (“PF&R”) (Document 14), which recommended that the Court deny Plaintiff’s Motion for Injunctive Relief, dismiss the case without prejudice for failure to prosecute, and remove the matter from the Court’s docket.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation

to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R in this case were due by August 27, 2012. To date, no party has filed objections.

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the Proposed Findings and Recommendation, and **ORDERS** that Plaintiff's Motion for Injunctive Relief (Document 6) be **DENIED** and Plaintiff's Complaint (Document 2) be **DISMISSED without prejudice**. The Court further **ORDERS** that this matter be removed from its docket.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and to any unrepresented party.

ENTER: August 30, 2012



IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA