

ENTER

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

FEB 20 2013
ETHNA M. COOPER JUDGE

EVERGREEN SOUTHWEST
BEHAVIORAL HEALTH
SERVICES LLC,

Appellant,

v.

MICHAEL CLARK, et al.,

Appellees.

Case No.: A1204235

Judge Ethna M. Cooper


**ENTRY OVERRULING
OBJECTIONS TO
MAGISTRATE'S DECISION
AND ADOPTING
MAGISTRATE'S DECISION**

This matter is before the Court on Appellant's Objections to Magistrate's November 5, 2012 Decision. In that Decision, the Magistrate dismissed the case without prejudice when counsel for Appellant's failed to appear on October 11, 2012 and November 1, 2012. In its Motion, Appellant indicates it did not receive notice of the conference for October 11, 2012. Appellant also claims that counsel appeared for the November 1, 2012 report but, because the case was called "out of order" and prior to his arrival, the Magistrate dismissed the case for failure to appear. However, the Court docket indicates that notice of each of the four court settings was sent to counsel for Appellant at the address provided. Moreover, there is no Local Rule preventing the Magistrate from hearing cases in whatever order he so chooses.

The Objections before the Court do not relate to a finding of fact or a conclusion of law. Rather, the Objections concern an administrative, discretionary decision of the Magistrate to dismiss the case without prejudice for counsel's failure to appear. Granting the Objections under such circumstances would effectively interfere in the Magistrate's management and administration of his own docket and the Court is not

inclined to do that absent an abuse of discretion. Having reviewed the Objections, all pertinent pleadings and entries, and having conducted an independent review as to the objected matters, the Court finds the Objections to the Magistrate's Decision not well-taken and hereby accepts and adopts as its own the November 5, 2012 Decision of the Magistrate pursuant Civ. R. 53(D)(4).

IT IS SO ORDERED.



Judge Ethna M. Cooper
Hamilton County Court of Common Pleas

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COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

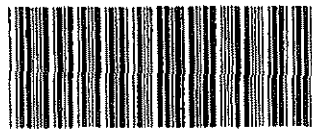
EVERGREEN SOUTHWEST	:	Case No. A1204235
BEHAVIORIAL HEALTH SERVICES,	:	
	:	
Appellant,	:	Judge Cooper
	:	
v.	:	
	:	<u>MAGISTRATE'S DECISION</u>
MICHAEL R. CLARK, et al.,	:	
	:	
Appellees.	:	

RENDERED THIS 1ST DAY OF NOVEMBER, 2012.

This foreclosure case came before the Common Pleas Magistrate on November 1, 2011 at 9:00 am for appearance or dismissal. The case was called. Plaintiff's counsel failed to appear or otherwise give justifying cause for lack of appearance. Plaintiff previously failed to appear at a case management conference on October 11, 2012. This case was filed May 25, 2012.

DECISION

Because Plaintiff has failed to prosecute, this case is hereby DISMISSED without prejudice pursuant to Civil Rule 41(B)(1).



D99805367

MICHAEL L. BACHMAN
MAGISTRATE
COURT OF COMMON PLEAS

NOTICE

Objections to the Magistrate's Decision must be filed within fourteen days of the filing date of the Magistrate's Decision. A party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically

designated as a finding of fact or conclusion of law under Civ. R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ. R. 53(D)(3)(b).

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT COPIES OF THE FOREGOING DECISION HAVE BEEN SENT BY ORDINARY MAIL TO ALL PARTIES OR THEIR ATTORNEYS AS PROVIDED ABOVE.

Date: 7/1/6 Deputy Clerk: 