

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 00-1562

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PREFAB, INCORPORATED; JAMES M. MILLEAGE;  
EDWARD D. SNAVELY,

Plaintiffs - Appellants,

and

BONNIE I. MILLEAGE,

Third Party Defendant - Appellant,

versus

BRANCH BANKING & TRUST, INCORPORATED; ASSO-  
CIATED MACHINE TOOLS; GERALD O'REILLY; JOHN  
DEMPSEY, JR.; WILLIAM NEWBOLD,

Defendants - Appellees,

and

HOME FEDERAL SAVINGS BANK OF SOUTH CAROLINA,

Third Party Defendant.

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Appeal from the United States District Court for the District of  
South Carolina, at Rock Hill. Dennis W. Shedd, District Judge.  
(CA-97-2875-0-19)

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Submitted: March 30, 2001

Decided: June 7, 2001

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Before WIDENER, WILLIAMS, and MOTZ, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Stephen D. Schusterman, SCHUSTERMAN LAW FIRM, P.A., Rock Hill, South Carolina, for Appellants. Constance L. Young, Thomas L. Ogburn, III, POYNER & SPRUILL, L.L.P., Charlotte, North Carolina; James W. Bradford, Jr., BRADFORD & BRADFORD, P.A., York, South Carolina; Susan B. Lipscomb, NEXSEN, PRUET, JACOBS & POLLARD, Columbia, South Carolina, for Appellees.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Prefab, Inc., James Milleage, Edward Snavelly, and Bonnie Milleage (the "Appellants") appeal from the district court's order dismissing their complaint for failure to obey discovery orders pursuant to Fed. R. Civ. P. 37(b). The Appellants' case was referred to a magistrate judge pursuant to 28 U.S.C.A. § 636(b)(1)(B) (West 1993 and Supp. 2000 ). The magistrate judge recommended that the complaint be dismissed based on the Appellants' repeated failure to comply with discovery orders and advised the Appellants that failure to file timely objections to this recommendation could waive appellate review of a district court order based upon the recommendation. Despite this warning, the Appellants failed to object to the magistrate judge's recommendation.

The timely filing of objections to a magistrate judge's recommendation is necessary to preserve appellate review of the substance of that recommendation when the parties have been warned that failure to object will waive appellate review. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); see Thomas v. Arn, 474 U.S. 140, 155 (1985) (holding "that a court of appeals may adopt a rule conditioning appeal, when taken from a district court judgment that adopts a magistrate's recommendation, upon the filing of objections with the district court identifying those issues on which further review is desired"). The Appellants have waived appellate review by failing to file objections after receiving

proper notice. Accordingly, we affirm the judgment of the district court. The motion to file a Rule 60(b) motion is denied. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED