

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

SHARON MCCREA,

Plaintiff,

vs.

BIG R, INC., et al,

Defendants.

CV-10-46-GF-SEH-RKS

**FINDINGS AND
RECOMMENDATIONS
OF MAGISTRATE JUDGE**

The case is referred to the undersigned to issue Findings and Recommendations pursuant to Local Rule 73.

Plaintiff, Ms. Sharon McCrea, was denied permission to proceed in forma pauperis with this action pursuant to 28 U.S.C. § 1915(a) because the affidavit showing the inability to pay was not notarized. (C.D. 4). Ms. McCrea's Complaint was screened pursuant 28 U.S.C. § 1915(e)(2), and she was given notice that if all named Defendants listed in her Complaint are residents of

Montana, this Court does not have jurisdiction to hear this matter. (C.D. Id.)

Ms. McCrea was given two opportunities to amend her Complaint and file a properly executed affidavit and Motion to Appear Informa Pauperis. The first being the Order signed by the undersigned on July 3, 2010, giving Ms. McCrea until August 13, 2010. (Id.) The second, the Order signed by the undersigned, dated September 20, 2010, giving Ms. McCrea until October 8, 2010 to amend her Complaint and file a properly executed affidavit and Motion to Appear Informa Pauperis, or this matter would be dismissed. (C.D. 5). No amended Complaint or properly executed affidavit and Motion to Appear Informa Pauperis have been filed, nor has Ms. McCrea filed notice of intent to rely upon her initial Complaint. This matter should be dismissed.

Therefore, **IT IS HEREBY RECOMMENDED** that:

1. Ms. McCrea's Complaint(C.D. 2) should be **DISMISSED WITHOUT PREJUDICE.**

**NOTICE OF RIGHT TO OBJECT
AND CONSEQUENCES OF FAILURE TO OBJECT**

Pursuant to 28 U.S.C. § 636(b)(1), Ms. McCrea may serve and file written objections to these Findings and Recommendations within ten (14) business days of the date entered as indicated on the Notice of Electronic Filing. A district judge will make a de novo determination of those portions of the Findings and Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge.

DATED this 18th day of October, 2010.

/s/ Keith Strong
Keith Strong
U.S. Magistrate Judge