

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

NED VERNON NELSON, JR.

PLAINTIFF

vs.

Civil No. 1:10-cv-01032

ERGON, INC. et al.

DEFENDANTS

REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

Before this Court is the Motion to Dismiss Ergon, Inc. and Lion Oil Company. ECF No. 11. Pursuant to the provisions of 28 U.S.C. § 636(b)(1) and (3) (2005), the Honorable Harry F. Barnes referred this Motion to this Court for the purpose of making a report and recommendation. ECF No. 15. In accordance with that referral, this Court enters the following report and recommendation.

On May 7, 2010, Defendants Ergon, Inc. and Lion Oil Company filed this Motion requesting they be dismissed from this case. ECF No. 11. On September 26, 2010, Plaintiff responded to this Motion and does not object to that request. ECF No. 18. Accordingly, this Court recommends that Defendants Ergon, Inc. and Lion Oil Company be dismissed from this case without prejudice.

The parties have fourteen (14) days from receipt of this Report and Recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger *de novo* review by the district court. See *Thompson v. Nix*, 897 F.2d 356, 357 (8th Cir. 1990).

ENTERED this 5th day of October, 2010.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
U.S. MAGISTRATE JUDGE