

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
TEXARKANA DIVISION

FABIAN TOLEDANO

PLAINTIFF

VS.

CASE NO. 4:12-CV-4135

SHELTER MUTUAL INSURANCE  
COMPANY

DEFENDANT

**ORDER**

Before the Court is the Report and Recommendation filed April 10, 2014 by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 20). Judge Bryant recommends that Defendant's Motion for Partial Summary Judgment (ECF No. 11) be granted. Plaintiff has filed objections to the Report and Recommendation. (ECF No. 21). Defendant has filed a response. (ECF No. 22). After reviewing the record *de novo*, the Court adopts Judge Bryant's Report and Recommendation as its own.

Plaintiff makes two objections which he claims are based on "mistakes of fact" in the Report and Recommendation. After reviewing the alleged "mistakes" and accepting Plaintiff's interpretation of the facts as true, the Court believes that the analysis in the Report and Recommendation remains sound. There is no basis for Plaintiff's claim of bad faith. Furthermore, while Plaintiff refers to "mistakes of fact" by Judge Bryant, Plaintiff's objections are actually based on new facts and details that were not before Judge Bryant. As Defendant points out, Plaintiff may not present new facts and arguments in his objections that were not before the magistrate. *Ridenour v. Boehringer Ingelheim Pharms., Inc.*, 679 F.3d 1062, 1067 (8th Cir.2012)

The Court overrules Plaintiff's objections and adopts Judge Bryant's Report and Recommendation (ECF No. 20). For the reasons stated herein and above, as well as those contained

in the Report and Recommendation, Defendant's Motion for Partial Summary Judgment (ECF No. 11) should be and hereby is **GRANTED**. Plaintiff's claims based on bad faith are **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED, this 6th day of June, 2014.

/s/ Susan O. Hickey  
Susan O. Hickey  
United States District Judge