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Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendations, filed February 12, 2013, is adopted in full;
2. Defendants Jennings and Lowe's Motion for Summary Judgment, filed June 25, 2012, is denied; and
3. The matter is referred to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

Dated: March 21, 2013



SENIOR DISTRICT JUDGE