IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO Judge Philip A. Brimmer

Civil Action No. 08-cv-00491-PAB-MEH

AMY BULLOCK, as an individual, as the next of kin and personal representative of JEFFREY BULLOCK, deceased, and as parent and next friend of ADAM BULLOCK, CHELSEA BULLOCK, and MELISSA BULLOCK,

Plaintiffs,

and

DOMINO'S PIZZA, LLC,

Plaintiff-Intervenor,

٧.

FREIGHTLINER, LLC. a limited liability company and a division of Daimler Trucks North America, LLC, and PENSKE TRUCK LEASING COMPANY, L.P., a limited partnership,

Defendants.

ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION

This matter is before the Court on the Recommendation of United States Magistrate Judge Michael E. Hegarty filed on October 1, 2008 [Docket No. 47]. The Recommendation states that objections to the Recommendation must be filed within ten days after its service on the parties. See also 28 U.S.C. § 636(b)(1)(C). The Recommendation was served on October 2, 2008. No party has objected to the Recommendation.

In the absence of an objection, the district court may review a magistrate judge's recommendation under any standard it deems appropriate. Summers v. Utah, 927 F.2d 1165, 1167 (10th Cir. 1991); see also Thomas v. Arn, 474 U.S. 140, 150 (1985) ("[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings"). In this matter, I have reviewed the Recommendation to satisfy myself that there is "no clear error on the face of the record." See Fed. R. Civ. P. 72(b), Advisory Committee Notes. Based on this review, I have concluded that the Recommendation is a correct application of the facts and the law. Accordingly, it is

ORDERED as follows:

- The Recommendation of United States Magistrate Judge [Docket No. 47] is ACCEPTED. Plaintiffs' Motion for Leave to File Second Amended Complaint [Docket No. 32] is granted in part and denied in part.
- Plaintiffs are granted leave to amend the First Amended Complaint [Docket No. 8] to correctly identify defendants based on defendants' submitted Disclosure
 Statements and shall file any such second amended complaint on or before
 February 27, 2009.

¹This standard of review is something less than a "clearly erroneous or contrary to law" standard of review, Fed. R. Civ. P. 72(a), which in turn is less than a de novo review. Fed. R. Civ. P. 72(b).

3. Plaintiffs' request to amend the First Amended Complaint to include punitive damages claims against both defendants is DENIED without prejudice as premature.

DATED February 17, 2009.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge