

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
LEWIS T. BABCOCK, JUDGE**

Civil Case No. 08-cv-02481-LTB-KMT

DANIEL W. DAUWE,

Plaintiff,

v.

G. DAVID MILLER, individually and in his capacity as judicial officer,
JOANN L. VOGT, individually and in her capacity as judicial officer,
DIANA TERRY, individually and in her capacity as judicial officer,
NANCY J. LICHTENSTEIN, individually and in her capacity as judicial officer,

Defendants.

ORDER

THIS CASE is before me on the Recommendation of the Magistrate Judge that (1) Defendants' Motion to Dismiss Amended Complaint (Doc 21) be granted; (2) Plaintiff's Motion Requesting a Temporary Restraining Order (Doc 29) be denied; (3) Plaintiff's Motion for Injunctive Relief (Doc 30) be denied; and (4) the case be dismissed in its entirety. Plaintiff has filed timely written objections to the Magistrate Judge's Recommendation. The recommendation was issued and served on May 13, 2009 (Doc 38). On June 1, 2009, Defendants also filed objections to the Magistrate Judge's recommendation contending that the Magistrate Judge failed to address their arguments that Plaintiff's action is barred by preclusion principals, that equitable relief is unavailing because legal remedies were available, that there was no proper request for prospective injunctive relief, and that there was no proper request for declaratory relief (Doc 40).

Fed.R.Civ.P. 6 affords three additional days for the timely filing. Defendants duplicate objections filed June 2, 2009 (Doc 40) also appear to be timely.

Plaintiff responds to Defendants objections on the basis that they were untimely. This response is without merit. Finally, Defendants have filed their response to Plaintiff's specific objections to the Magistrate Judge's recommendation.

I have therefore reviewed the Recommendation *de novo* in light of the file, record, and objections to the Recommendation. On *de novo* review, I conclude that the Recommendation is correct. I further conclude that the Defendants present meritorious arguments that Plaintiff's action is barred by preclusion principals, that equitable relief is unavailable because legal remedies were available, that there was no proper request for prospective injunctive relief, and that there were no proper requests for declaratory relief.

Accordingly

IT IS ORDERED that

- (1) Defendants' Motion to Dismiss Amended Complaint (Doc 21) is GRANTED;
- (2) Plaintiff's Motion Requesting a Temporary Restraining Order (Doc 29) is DENIED;
- (3) Plaintiff's Motion for Injunctive Relief (Doc 30) is DENIED; and
- (4) The above action is DISMISSED IN ITS ENTIRETY with costs awarded the Defendants.

BY THE COURT:

s/Lewis T. Babcock
Lewis T. Babcock, Judge

DATED: June 22, 2009