

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 09-cv-00205-CMA-KMT

ROBERT D. GANDY,

Plaintiff,

v.

ARISTEDES ZAVARAS,
CATHIE HOLST, and
MICHAEL ARRELLANO,

Defendants.

**ORDER ADOPTING AND AFFIRMING JANUARY 7, 2010 RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This matter is before the Court on the January 7, 2010 Recommendation by the Magistrate Judge that “Defendant’s Combined Motion to Dismiss and Memorandum Brief in Support of Motion to Dismiss Plaintiff’s Complaint” be granted in part and denied in part. (Doc. # 42). The Recommendation is incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b).

The Recommendation advised the parties that specific written objections were due within fourteen (14) days after being served with a copy of the Recommendation. (Doc. # 42 at 15.) Despite this advisement, no objections to the Magistrate Judge’s Recommendation were filed by either party. “In the absence of timely objection, the district court may review a magistrate . . . [judge’s] report under any standard it deems appropriate.” *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (citing *Thomas*

v. Arn, 474 U.S. 140, 150 (1985) (stating that “[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”).

The Court is satisfied that the Recommendation of the Magistrate Judge is sound and that “there is no clear error on the face of the record.” See Fed. R. Civ. P. 72(b) Advisory Committee Notes.

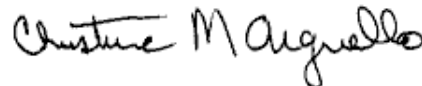
Accordingly,

It is ORDERED that the Recommendation of the United States Magistrate Judge (Doc. # 42), filed January 7, 2010, is ACCEPTED, and, for the reasons cited therein, “Defendant’s Combined Motion to Dismiss and Memorandum Brief in Support of Motion to Dismiss Plaintiff’s Complaint” (Doc. # 18) is GRANTED in part and DENIED in part, as follows:

- 1) Plaintiff’s Claim One and all claims against Defendant Aristedes Zavaras are DISMISSED with prejudice; and
- 2) Plaintiff’s Claims Two and Three and the claims against Defendants Cathie Holst and Michael Arrellano shall be set for further proceedings.

DATED: February 11, 2010

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge