

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

Civil Action No. 09-cv-02699-CMA-MEH

GABRIEL W. MARTINEZ, and
THOMAS A. CARLLON,

Plaintiffs,

v.

BILL RITTER, as Governor of the State of Colorado,
JOHN W. SUTHERS, as Attorney General of the State of Colorado,
both in their official capacities, and
THE STATE OF COLORADO,

Defendants.

**ORDER ADOPTING AND AFFIRMING JUNE 9, 2010 RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE**

This matter is before the Court on the June 9, 2010 Recommendation by the Magistrate Judge that Defendants' Motion to Dismiss Plaintiffs' Amended Complaint for Lack of Subject Matter Jurisdiction be granted and that Plaintiffs' Amended Complaint be dismissed without prejudice. (See Doc. ## 22, 23, 28.) 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. # 28 at 1 n.1.) Despite this advisement, no party filed objections to the Magistrate Judge's Recommendation. "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”).

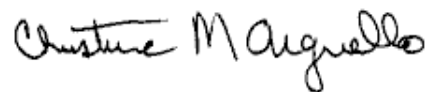
Based on its review, the Court concludes that the Magistrate Judge's thorough
and comprehensive analyses and recommendations are correct and that “there is no
clear error on the face of the record.” Fed. R. Civ. P. 72 advisory committee's note.
Therefore, the Court ADOPTS the Recommendation of the United States Magistrate
Judge as the findings and conclusions of this Court.

Accordingly, it is:

ORDERED that the Recommendation of the United States Magistrate Judge
(Doc. # 28), filed June 9, 2010, is ACCEPTED, and, because the Court lacks subject
matter jurisdiction, Defendants' Motion to Dismiss, (Doc. # 23), is GRANTED. Plaintiffs'
Amended Complaint, (Doc. # 22), is DISMISSED WITHOUT PREJUDICE.

DATED: June 30, 2010

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge