

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

Civil Action No. 11-cv-00355-PAB-KLM

DARWYNN L. BARWICK,

Plaintiff,

v.

JEFFERY BEHNKE, D.P.O. No. 96003, and
MICHEAL MAY, D.P.O. No. 00045,

Defendants.

ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION

This matter is before the Court on the Recommendation of United States Magistrate Judge Kristen L. Mix filed on November 13, 2012 [Docket No. 63]. The Recommendation states that objections to the Recommendation must be filed within fourteen days after its service on the parties. See 28 U.S.C. § 636(b)(1)(C). The Recommendation was served on November 13, 2012. 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. See *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, the Court has reviewed the

Recommendation to satisfy itself that there is “no clear error on the face of the record.”¹
Fed. R. Civ. P. 72(b), Advisory Committee Notes. Based on this review, the Court has
concluded that the Recommendation is a correct application of the facts and the law.
Accordingly, it is

ORDERED as follows:

1. The Recommendation of United States Magistrate Judge [Docket No. 63] is
ACCEPTED.
2. Defendants’ Motion for Summary Judgment [Docket No. 54] is GRANTED.
3. Judgment shall enter in favor of defendants on plaintiff’s remaining claim.
4. This case is dismissed.

DATED December 4, 2012.

BY THE COURT:

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

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).