

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

Civil Action No. 12-cv-01842-CMA-MEH

PHILIP J. RUBIN,

Plaintiff,

v.

BRETT HILLING, and  
JOHN DOES 1 and 2,

Defendants.

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**ORDER ADOPTING AND AFFIRMING MARCH 7, 2013  
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

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This case was referred to United States Magistrate Judge Michael E. Hegarty pursuant to 28 U.S.C. § 636 and Fed. R. Civ. P. 72. (Doc. # 13.) On March 7, 2013, Judge Hegarty issued a Recommendation, advising that “the District Court grant Defendants’ Motion to Dismiss . . . the Second Amended Complaint [Doc. # 19], and deny the Plaintiff leave to file a Third Amended Complaint.” (Doc. # 39 at 24.) Thereafter, Plaintiff filed a “Response to Summary Judgment” (Doc. # 43), which the Court construes as an objection to Judge Hegarty’s Recommendation.

When a magistrate judge issues a recommendation on a dispositive matter, Fed. R. Civ. P. 72(b)(3) requires that the district judge “determine de novo any part of the magistrate judge’s [recommended] disposition that has been properly objected to.” In conducting its review, “[t]he district judge may accept, reject, or modify the

recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.” *Id.*

In the instant case, Plaintiff does not “properly object[]” to any part of the Recommendation. Instead, he reiterates arguments that were properly before Magistrate Judge Hegarty at the time his Recommendation issued. Nonetheless, the Court has conducted a *de novo* review of this matter, including reviewing all relevant pleadings, the Recommendation, and Plaintiff’s objection thereto. Based on this *de novo* review, the Court concludes that Judge Hegarty’s Recommendation is correct and is not called into question by Plaintiff’s objection.<sup>1</sup>

Accordingly, it is hereby ORDERED that Plaintiff’s objection (Doc. # 43) is OVERRULED. It is

FURTHER ORDERED that the Recommendation of United States Magistrate Judge Michael E. Hegarty (Doc. # 39) is AFFIRMED and ADOPTED as an Order of this Court. Pursuant to the Recommendation, it is

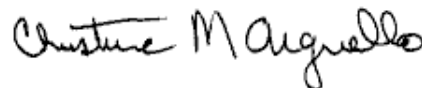
FURTHER ORDERED that the underlying Motion to Dismiss (Doc. # 19) is GRANTED, and Plaintiff is DENIED LEAVE to file a Third Amended Complaint.

As such, it is

ORDERED that the case is DISMISSED as against Defendant Brett Hilling.

DATED: April 04, 2013

BY THE COURT:



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CHRISTINE M. ARGUELLO  
United States District Judge

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<sup>1</sup> The Court also rejects Plaintiff’s renewed request for appointment of *pro bono* counsel (Doc. # 43 at 2) – for the reasons given by Judge Hegarty in denying Plaintiff’s previous request (see Doc. # 27).