

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

Civil Action No. 13-cv-00067-CMA-BNB

CHRISTY CALVIN, Individually,

Plaintiff,

v.

SMG, a Pennsylvania corporation,

Defendant.

**ORDER ADOPTING AND AFFIRMING JANUARY 10, 2014
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

This case was referred to United States Magistrate Judge Boyd N. Boland pursuant to 28 U.S.C. § 636 and Fed. R. Civ. P. 72. (Doc. # 4.) On January 10, 2014, Judge Boland issued a Recommendation on Defendant's Motion to Dismiss Amended Complaint and Jury Demand. (Doc. # 15.) In that Recommendation, Judge Boland recommended that the Court grant Defendant's Motion and dismiss all claims. (Doc. # 50.) On January 24, 2014, Plaintiff filed a timely objection to Judge Boland's Recommendation. (Doc. # 52.)

As required by 28 U.S.C. § 636(b), the Court has conducted a *de novo* review of this matter, including carefully reviewing all relevant pleadings, the Report and Recommendation, and Plaintiff's Objection to the Report and Recommendation. Based on this *de novo* review, the Court concludes that the Magistrate Judge's Report

and Recommendation is correct and is not called into question by Plaintiff's Objection. Although normally dismissals predicated on Fed. R. Civ. P. 12(b)(6) are without prejudice, the Court has reviewed Plaintiff's response to Defendant's Motion for Summary Judgment and sees no additional facts that would entitle Plaintiff to relief. Thus, an amendment to the complaint would be futile and the Court dismisses this action with prejudice. See *Grossman v. Novell, Inc.*, 120 F.3d 1112, 1126 (10th Cir. 1997) (A dismissal with prejudice is appropriate where a complaint fails to state a claim under Rule 12(b)(6) and granting leave to amend would be futile).

Accordingly, it is hereby ORDERED that Plaintiff's objection (Doc. # 52) is OVERRULED. It is

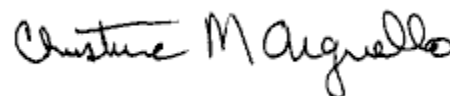
FURTHER ORDERED that the Recommendation of United States Magistrate Judge Boyd N. Boland (Doc. # 50) is AFFIRMED and ADOPTED as an Order of this Court. Pursuant to the Recommendation, it is

FURTHER ORDERED that Defendant's Motion to Dismiss (Doc. # 15) is GRANTED. It is

FURTHER ORDERED that the claims against Defendant are DISMISSED WITH PREJUDICE, and this case is DISMISSED in its entirety.

DATED: January 29, 2014

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge