

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

Civil Action No. 16-cv-00555-PAB-CBS

R.S., a Minor,

Plaintiff,

v.

THE VANGUARD SCHOOL,
CHEYENNE MOUNTAIN SCHOOL DISTRICT 12,
COLIN T. MULLANEY, in his individual capacity,
STERLING WARD BARR, in his individual capacity,
KAREN ANN HIGGINS, in her individual capacity,
WALTER C. COOPER, in his individual capacity,
CAROLINA STEEN, in her individual capacity,
DAN GEOFFROY, in his individual capacity,
JEFF LEASURE, in his individual capacity,
MATT HUGHES, in his individual capacity,
PATRICIA JESSE, in her individual capacity,
BRYAN EDWARD CAMPBELL, in his individual capacity,
SHERRYL DILLON, in her individual capacity,
STEVE K. PARKER, in his individual capacity,
MONICA PELOSO, in her individual capacity,
RANDY CASE, in his individual capacity,
TOM NEUMANN, in his individual capacity, and
RUSSELL ROSS, in his individual capacity,

Defendants.

ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION

This matter is before the Court on the Recommendation on Several Defendants' Amended Petition for Relief of Judge Craig B. Shaffer filed on September 8, 2017 [Docket No. 97]. 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 September 8, 2017. 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 on Several Defendants’ Amended Petition for Relief [Docket No. 97] is accepted.
2. Defendants’ Amended Joint Petition for Order to Show Cause Pursuant to C.R.S. § 38-35-204, and for Relief Pursuant to C.R.S. § 38-35-109 [Docket No. 75] is granted in part and denied in part.
3. The Petition is granted to the extent, as set forth in the Recommendation, that the Court finds the *lis pendens* were spurious.
4. Defendants’ request for relief under Colo. Rev. Stat. § 38-35-204 is denied as moot.

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).

5. Defendants' request for relief under Colo. Rev. Stat. § 38-35-109(3) is denied without prejudice for lack of subject matter jurisdiction.

DATED October 2, 2017.

BY THE COURT:

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