

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

ROBERT SMALL,

Plaintiff,

vs.

CASE NO. 8:13-CIV-2722-T-17-AEP

SEARS, ROEBUCK, AND CO., etc.,
et al.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

This cause is before the Court on the report and recommendation (R&R) issued by Magistrate Judge Anthony E. Porcelli on September 24, 2014 (Doc. 31); the agreed motion to exercise supplemental jurisdiction (Doc. 33); and the Cross-Plaintiff's motion for judgment on the pleadings (Doc. 28) and response thereto (Doc. 32). The magistrate judge recommended that the motion for involuntary dismissal (Doc. 16) be granted as to all defendants and that the Court consider retaining supplemental jurisdiction over the cross-claims. The Court has considered the motion for judgment on the pleadings and finds the response persuasive.

STANDARD OF REVIEW

When a party makes a timely and specific objection to a finding of fact in the report and recommendation, the district court should make a de novo review of the record with respect to that factual issue. 28 U.S.C. § 636(b)(1); **U.S. v. Raddatz**, 447 U.S. 667 (1980); **Jeffrey S. v. State Board of Education of State of Georgia**, 896 f.2d 507 (11th Cir. 1990). However, when no timely and specific objections are filed, case law indicates that the court should review the findings using a clearly erroneous standard. **Gropp v. United Airlines, Inc.**, 817 F.Supp. 1558, 1562 (M.D. Fla. 1993). No objections have been filed.

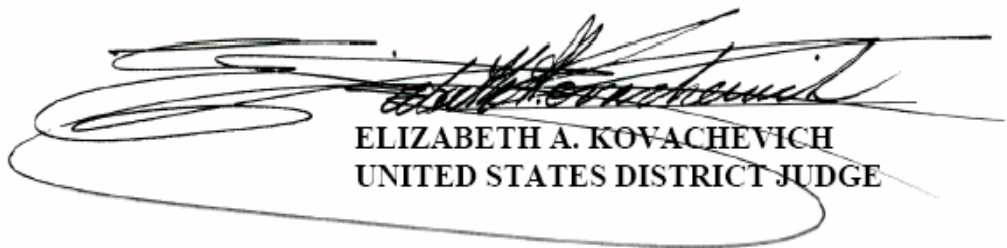
The Court has reviewed the report and recommendation and made an independent review of the record. Upon due consideration, the Court concurs with the report and recommendation. Accordingly, it is

ORDERED that the report and recommendation (Doc. 35) be **adopted** and **incorporated by reference**; the motion for involuntary dismissal be granted as to all defendants (Doc. 16) and the defendants shall be terminated from this cause. The motion for judgment on the pleadings be **denied**. The agreed motion to exercise

supplemental jurisdiction (Doc. 33) be granted and the Court will retain supplemental

jurisdiction over the cross-claims. Therefore, this cause is now only Sears, Roebuck, and Co., Cross-Plaintiff v. Victory Land Group, Inc., Cross-Defendant.

DONE and ORDERED in Chambers, in Tampa, Florida, this 15th day of October, 2014.



ELIZABETH A. KOVACHEVICH
UNITED STATES DISTRICT JUDGE

Copies to:
All parties and counsel of record
Assigned Magistrate Judge