

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

**DANIEL J. LEVITAN, and
PAMELA H. LEVITAN,
Plaintiffs,**

vs.

CASE NO.: 3:09cv321/MCR/MD

**MARY ANN PATTI, LLC.
SCENIC VIEW PROPERTIES, LLC
MARY ANN PATTI GUTHRIE,
KEITH GUTHRIE, AND
RAM 2000 CONTRACTORS,
Defendants.**

ORDER

This cause comes on for consideration upon the magistrate judge's report and recommendation dated February 22, 2010. The plaintiff has been furnished a copy of the report and recommendation and has been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1), and I have made a de novo determination of those portions to which an objection has been made.

Having considered the report and recommendation and all objections thereto timely filed, I have determined that the report and recommendation should be adopted.

Accordingly, it is now ORDERED as follows:

1. The magistrate judge's report and recommendation is adopted and incorporated by reference in this order.
2. The motion to dismiss of defendant Scenic Properties (doc. 12) is GRANTED.
3. The motion to dismiss filed by defendant RAM Contractors, Inc. (doc. 13) is GRANTED.

4. The motion to dismiss filed by defendants Keith Guthrie, Mary Ann Patti LLC, Mary Ann Patti Guthrie (doc. 14) is GRANTED.

5. Said dismissals are without prejudice to the plaintiffs filing, within 28 days of this order, a second amended complaint that corrects the legal deficiencies identified in the magistrate judge's Report and Recommendation of February 22, 2010. Failure to file a second amended complaint will result in the dismissal of this case.

6. In light of the foregoing, plaintiffs' motion for temporary restraining order (doc. 51) is DENIED without prejudice.

DONE AND ORDERED this 18th day of March, 2010.

s/ M. Casey Rodgers

**M. CASEY RODGERS
UNITED STATES DISTRICT JUDGE**