

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

BERNARD C. McGEE,

Plaintiff,

v.

CASE NO. 5:11-cv-80-RS-GRJ

TIFFT, et al.,

Defendants.

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ORDER

Before me are the Magistrate Judge's Report and Recommendation (Doc. 68) and Plaintiff's Objections (Doc. 73). I have reviewed Plaintiff's Objections *de novo*.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation is approved and incorporated in this Order.
2. Plaintiff's First amended Complaint (Doc. 7) is **DISMISSED** for failure to exhaust administrative remedies under Plaintiff's alternative theory of exhaustion, unavailability.
3. Judgment in favor of Defendants remains in effect.
4. The Clerk is directed to close the case.

ORDERED on May 8, 2013.

/S/ Richard Smoak
RICHARD SMOAK
UNITED STATES DISTRICT JUDGE