

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

JO ANN KURZ,

Plaintiff,

v.

COLLEEN ZAHN,

Defendant.

Case No. 1:11-cv-00342-EJL-MHW

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

On April 13, 2012, United States Magistrate Judge Mikel H. Williams issued a Report and Recommendation (Dkt. 14), recommending that Plaintiff's Application for *In Forma Pauperis* Status be denied. Judge Williams further recommended that plaintiff's complaint, conditionally filed, be dismissed. Any party may challenge a magistrate judge's proposed recommendation by filing written objections within fourteen days after being served with a copy of the Magistrate Judges's Report and Recommendation. *See* 28 U.S.C. § 636(b)(1)(C). The district court must then "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* The district court may accept, reject, or modify in whole or in

part, the findings and recommendations made by the Magistrate Judge. *Id.*; *see also* Fed. R. Civ. P. 72(b).

Plaintiff filed an objection challenging the Report and Recommendation's conclusions. (Dkt. Nos. 15-17). She also paid the \$350 filing fee.

After considering Plaintiff's contentions and conducting a *de novo* review of the record, the Court agrees with Judge Williams' conclusions. The Court will not restate those conclusions here, but to summarize: (1) Plaintiff's negligence and malpractice claims are time-barred; and (2) her remaining claims are not viable under the reasoning of *Weitz v. Green*, 230 P.3d 743 (Idaho 2011) and *Richardson v. Kessler*, 255 P.2d 707, 709 (Idaho 1953). The Court will therefore dismiss her complaint with prejudice.

ORDER

IT IS ORDERED:

1. Plaintiff's application for *in forma pauperis* status is **MOOT**, given her payment of the \$350 filing fee.
2. Otherwise, the Court adopts the Report and Recommendation in its entirety. Plaintiff's complaint is therefore **DISMISSED WITH PREJUDICE**.
3. The Court will enter a separate judgment in accordance with Federal Rule of Civil Procedure 58.

SO ORDERED.



DATED: September 26, 2012

A handwritten signature in black ink that reads "Edward J. Lodge". The signature is written in a cursive style and is positioned above a horizontal line.

Edward J. Lodge

United States District Judge