

a Rule 12(c) motion, or, if the matters outside the pleading will be offered, as a motion for summary judgment. The Court agrees that there are too many unanswered questions to make a definitive ruling on Defendants' *res judicata* defense which is based upon the Illinois Human Rights Commission Order dated January 1, 2009.¹ The Court further concurs with the recommendation that Defendants' Motion to Dismiss be denied as moot with regard to Stephen Snyder, as Plaintiff's Amended Complaint dropped Snyder as a defendant.

Accordingly, the Court now adopts the Report & Recommendation [#22] of the Magistrate Judge in its entirety. Defendants' Motion to Dismiss [#12] is DENIED. The Motion to Dismiss is denied as moot with regard to Stephen Snyder because he was previously terminated from the case on May 18, 2010. The Motion to Dismiss is further denied with leave to renew with regard to the *res judicata* argument. This matter is referred to the Magistrate Judge for further proceedings.

ENTERED this 4th day of August, 2010.

s/Michael M. Mihm
Michael M. Mihm
United States District Judge

¹That Commission Order affirmed the dismissal of state law discrimination charges filed by Plaintiff and his wife.