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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS**

FILED

OCT 17 2013

CLERK OF COURT
U.S. DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS

TIFFANY HOWARD,)
)
Plaintiff,)
)
v.)
)
KEVIN RYAN, individually and in his official)
capacity as an officer of the Normal Police)
Department; CITY OF NORMAL, ILLINOIS)
Illinois Local Governmental Entity, and)
ADVANTAGE AUTO SALES, INC.)
)
Defendants.)

Case No. 13-cv-1231

ORDER

On August 20, 2013, Magistrate Judge Byron G. Cudmore filed a Report and Recommendation in the above captioned case. More than fourteen (14) days have elapsed since the filing of the Report and Recommendation, and no objections have been made. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); Lockert v. Faulkner, 843 F.2d 1015 (7th Cir. 1988); and Video Views, Inc. v. Studio 21, Ltd., 797 F.2d 538, 539 (7th Cir. 1986). As the parties failed to present timely objections, any such objections have been waived. Id.

The details of this case are Howard filed this action in the Circuit Court of McLean County, Illinois alleging Defendants violated her civil rights pursuant to 42 U.S.C. §1983. Defendants removed the case to this Court on May 20, 2013. Defendants answered Howard's complaint and raised nine affirmative defenses. On July 17, 2013, Howard moved to strike Defendants' affirmative defenses. Defendants subsequently withdrew Affirmative Defenses 3, and 5 through 9; leaving Affirmative Defenses 1, 2, and 4 remaining. This Court concurs with the Magistrate Judge's detailed discussion and recommendation.

Accordingly, the Court now adopts the Report and Recommendation [17] of the Magistrate Judge in its entirety. Howard's Motion to Strike or Dismiss [12] is GRANTED in part and DENIED in part. The request to strike Affirmative Defenses 3 and 5 through 9 is DENIED as moot because Defendants withdrew these Defenses. The request to strike Affirmative Defense 1 is GRANTED. The qualified immunity defense in Affirmative Defense 2 is stricken as to the City and Defendant Ryan in his official capacity but not stricken as to Defendant Ryan in his individual capacity. The request to strike Affirmative Defense 4 is DENIED. This matter is again REFERRED to Magistrate Judge Cudmore for further proceedings.

ENTERED this 17 day of October, 2013.

s/Chief Judge James E. Shadid

James E. Shadid
Chief United States District Judge