

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

RANDY GLENN,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 16-cv-00081-JPG-DGW
)	
USA, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter comes before the court on the Report and Recommendation (“R & R”) (Doc. 37) of Magistrate Judge Donald G. Wilkerson with regard to Defendants’ Motion (Doc. 32) to Dismiss or in the alternative, Motion for Summary Judgment. There were no objections to the R & R.

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. The Court has discretion to conduct a new hearing and may consider the record before the magistrate judge anew or receive any further evidence deemed necessary. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the Report. The Court has reviewed the entire file and finds that the R & R is not clearly erroneous. Accordingly, the Court hereby **ADOPTS** the Report in its entirety (Doc. 37) and **GRANTS** in part and **DENIES** in part Defendants’ Motion (Doc. 32) to Dismiss or in the alterative, Motion for Summary Judgment. Defendants’ Motion to Dismiss with regard to Count One is **GRANTED**. Count One of plaintiff’s complaint is

DISMISSED without prejudice and plaintiff is **GRANTED** leave to file an amended complaint that includes a certificate of merit within **30 days** of this Order. Plaintiff is **WARNED** that failure to file an amended complaint with a certificate of merit within the time allotted will result in the dismissal of Count One being converted to a dismissal *with* prejudice without further action.

Defendants' Motion to Dismiss with regard to Count Two is **DENIED** without prejudice and as indicated within the R & R, defendants are **ADVISED** that they may file a motion for summary judgment on the issues raised within the motion to dismiss on or before the dispositive motion deadline set forth in the Scheduling Order (Doc. 31).

IT IS SO ORDERED.

DATED: 5/4/2017

s/J. Phil Gilbert

J. PHIL GILBERT
U.S. DISTRICT JUDGE