

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MARK COLSTON,

Plaintiff,

v.

GALLAGHER BASSETT SERVICES,

Defendant.

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Case No. 17-10084

Honorable Nancy G. Edmunds

**OPINION AND ORDER ACCEPTING THE MAGISTRATE JUDGE'S SEPTEMBER 26,  
2017 REPORT AND RECOMMENDATION [15]**

Currently before the Court is the magistrate judge's September 26, 2017 report and recommendation. The Court is fully advised in the premises and has reviewed the record and the pleadings. Neither party has filed objections. "[T]he failure to object to the magistrate judge's report[] releases the Court from its duty to independently review the matter." *Hall v. Rawal*, 09-10933, 2012 WL 3639070, at \*1 (E.D. Mich. Aug. 24, 2012) (citation omitted). The Court nevertheless agrees with the magistrate judge's recommendation.

The Court agrees that it lacks subject matter jurisdiction over Plaintiff's claims because they are barred by the Michigan Worker's Disability Compensation Act and its exclusive remedy provision. See Mich. Comp. Laws §§ 418.131, 418.827; *Mack v. Strategic Materials, Inc.*, 270 F. Supp. 2d 934, 939 (E.D. Mich. 2003), *aff'd*, 106 F. App'x 1000 (6th Cir. 2004). The Court further notes that, in case number 2:17-cv-10076 previously filed by Plaintiff alleging the same set of facts as in the instant case, the magistrate judge entered

a report and recommendation explaining that the Court lacks subject matter jurisdiction. (Dkt. # 32, Pg ID 156-58). Plaintiff likewise failed to timely object to the report and recommendation in the previous case.

The Court therefore ACCEPTS and ADOPTS the magistrate judge's report and recommendation. It is further ordered that Plaintiff's Amended Complaint (Dkt. # 6) is hereby DISMISSED without prejudice to refile in the appropriate jurisdiction.

SO ORDERED.

s/Nancy G. Edmunds  
Nancy G. Edmunds  
United States District Judge

Dated: November 7, 2017

I hereby certify that a copy of the foregoing document was served upon counsel of record on November 7, 2017, by electronic and/or ordinary mail.

s/Carol J. Bethel  
Case Manager