

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Patrick A. Carlone,

Civil 09-204 JMR/FLN

Plaintiff,

v.

O R D E R

International Association of Heat  
and Frost Insulators and Allied  
Workers Local No. 34,Defendants.

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Based upon the Findings of Fact, Conclusions of Law, and Recommendation by United States Magistrate Judge Franklin L. Noel dated August 21, 2009, all the files and records, and no objections having been filed to said Report and Recommendation,

**IT IS HEREBY ORDERED** that Defendants' Motion to Dismiss [#10] is

**GRANTED in part** and **DENIED in part**, as follows:

1. To the extent that Defendants seek to dismiss Count III, the Motion is **GRANTED.**
2. To the extent Defendants seek to dismiss Count IV, the Motion is **DENIED.**
3. To the extent Defendants seek to dismiss Count V, the Motion is **GRANTED.**

DATED: September 9, 2009.  
at Minneapolis, Minnesota

s/James M. Rosenbaum  
JUDGE JAMES M. ROSENBAUM  
United States District Court