

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Matthew M. Pepe,

Civil No. 10-336 (DWF/SER)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Michael J. Astrue,
Commissioner of Social Security,

Defendant.

Franklin W. Levin, Esq., Fank W. Levin PA, counsel for Plaintiff.

Lonnie F. Bryan, Assistant United States Attorney, United States Attorney's Office,
counsel for Defendant.

This matter is before the Court on the Report and Recommendation of Magistrate Judge Franklin L. Noel dated December 23, 2010. No objections to the Report and Recommendation have been filed within the requisite time period.

Based on the foregoing, and all the files, records and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Plaintiff's motion for summary judgment (Doc. No. [13]) is **GRANTED**;
2. Defendant's motion for summary judgment (Doc. No. [24]) is **DENIED**;

and

3. This action is **REMANDED** for further proceedings consistent with this opinion.

Dated: January 19, 2011

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge