

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

LUIS M. BATISTA

,

CIVIL NO. 16-794 (PJS/DTS)

Plaintiff,

v.

ORDERUNITED STATES OF AMERICA,  
JOHN DUNLOP, D.O.,  
ANDREW SCHUMACHER, PA,  
JENNIFER GRIFFITH, PA-C, and  
NOEL JENSEN,

Defendants.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge David T. Schultz dated June 9, 2017 and the Supplemental Report and Recommendation dated June 29, 2107. No objections have been filed to those Reports and Recommendations in the time period permitted.

The Court, being duly advised in the premises, upon the Reports and Recommendations of the Magistrate Judge, and upon all of the files, records and proceedings herein, now makes and enters the following Order.

## IT IS HEREBY ORDERED:

1. Defendants United States, Dunlop, Schumacher and Griffith's motion to dismiss (ECF No. 63) Batista's First Amended Complaint is **GRANTED** in part and **DENIED** in part as follows:

a. The motion is GRANTED as to all claims against defendants Dunlop, Schumacher and Griffith, and such claims are DISMISSED without prejudice for lack of personal jurisdiction.

b. The motion to dismiss claims against the United States based on the IACA is DENIED.

c. The motion is GRANTED as to Batista's medical malpractice claims regarding conduct that occurred in Minnesota, and such claims are DISMISSED with prejudice for failure to comply with Minn. Stat. § 145.682.

d. The motion is GRANTED as to Batista's FTCA negligence claim against the United States that is based on Jensen's acts or omissions, and that such claim be DISMISSED.

2. Batista's request to transfer venue (ECF No. 86) is **DENIED** without prejudice.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: 7/26/2017

s/Patrick J. Schiltz  
PATRICK J. SCHILTZ  
United States District Court Judge