

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Michael D. Benson,

Civil No. 17-266 (DWF/TNL)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Emily Johnson Piper, Comm. of the Dept. of Human Services; Shelby Richardson, MSOP Dir.; Kevin Moser, Fac. Dir.; Terry Kniesel, Asst. Fac. Dir.; Steve Sadjak, Asst. Fac. Dir.; Rich O'Conner, Super.; Steve Sayovitz, Super.; Ron Fischer, Super.; Nate Johnson, Super.; Mike Goeglein, Super.; Scott Benoit, Man.; Lori Aldrin, Off. of the Day; Julianna Beavens, Off. of the Day; Ryan Fahland, Asst. Super.; Randy Gordon, Asst. Super.; Andrea Kosloski, Unit 1-B Dir.; Brian Ninneman, Unit 1-C Dir.; Robert Rose, Unit 1-C Dir.; Kathryn Schesso, Clin. Super.; Jana Korby, Clin. Super.; Tara Osbourne, Clin. Super.; Nicole Vaineo, Clin. Ther.; Kyle Randa, Sec. Couns. Lead; Elizabeth Wyatt, Sec. Couns. Lead; Derrick Koecher, Sec. Couns. Lead; Scott Gianinni, Sec. Couns.; Brennan Shorter, Sec. Couns.; Blake Carey, Sec. Couns.; Gordon Huhta, Sec. Couns.; Robert Gresczyk Jr., Sec. Couns.; Wendy McGowan, Sec. Couns.; Barry Giersdorf, Sec. Couns.; Chris St. Germain, Sec. Couns.; Jordan Goodman, Sec. Couns.; Sam Brindamor, Sec. Couns.; Bruce Lind, Sec. Couns.; Travis Cowell, Sec. Couns.; Jenny Collelo, Sec. Couns.; and Paul Michelizzi, Sec. Couns.,

Defendants.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Tony N. Leung dated July 31, 2017.¹ (Doc. No. 52.) No objections have been filed to that Report and Recommendation in the time period permitted. The relevant factual background for the above-entitled matter is clearly set forth in the Report and Recommendation and is incorporated by reference.² Based upon the Report and Recommendation of the Magistrate Judge and upon all of the files, records, and proceedings herein, the Court now makes and enters the following:

ORDER

1. Magistrate Judge Tony N. Leung's July 31, 2017 Report and Recommendation (Doc. No. [52]) is **ADOPTED**.
2. Plaintiff's Motion for Temporary Restraining Order (Doc. No. [33]) is **DENIED AS MOOT**.

¹ Magistrate Judge Leung's Report and Recommendation notes that the Plaintiff's motions were "referred . . . for a report and recommendation . . . pursuant to 28 U.S.C. § 636 and Local Rule 72.1." (Doc. No. 52 at 1.) Local Rule 72.1 provides that all "prisoner petitions challenging conditions of confinement," among other types of cases, shall be automatically referred to the assigned magistrate judge for consideration. Although local administrative procedures presume the automatic referral of cases filed by individuals committed to the Minnesota Sex Offender Program in the same manner as prisoner petitions, the Court acknowledges that such individuals are not in fact prisoners.

² The Court notes that the case caption of Plaintiff's original lawsuit should be updated to reflect the dismissal of Defendant Emily Johnson Piper following the Court's March 31, 2017 Order in Case No. 16-cv-509 (DWF/TNL). Thus, Plaintiff's original lawsuit, referenced throughout Magistrate Judge Leung's July 31, 2017 Report and Recommendation in this case, should be referred to going forward as *Benson v. Fischer, et al.*, Case No. 16-cv-509 (DWF/TNL).

3. Plaintiff's Motion for Amended Temporary Restraining Order (Doc. No. [49]) is **DENIED**.

4. This matter is **STAYED** in all respects pending the litigation in *Karsjens* or until further order of this Court stating otherwise.

5. The Court reserves the right to revisit the propriety of continuing to stay this matter going forward.

Dated: September 21, 2017

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