

**FILED**

OCT 23 2013

Clerk, U S District Court  
District Of Montana  
Billings

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

TOBY C. McADAM,

Plaintiff,

vs.

UNITED STATES FOOD AND  
DRUG ADMINISTRATION;  
MARGARET A. HAMBURG,  
COMMISSIONER OF FDA,

Defendants.

No. CV-12-137-BLG-SEH

**ORDER**

United States Magistrate Judge Carolyn S. Ostby entered Findings and Recommendations in this matter on September 30, 2013.<sup>1</sup> Plaintiff filed objections on October 18, 2013.<sup>2</sup> The Court reviews *de novo* findings and recommendations to which objections are made. 28 U.S.C. § 636(b)(1).

Upon *de novo* review of the record, I find no error in Judge Ostby's Findings and Recommendations and adopt them in full. The claims asserted by

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<sup>1</sup> Doc. 21

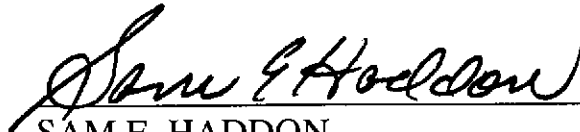
<sup>2</sup> Doc. 22

Plaintiff may be dismissed because: 1) they constitute an impermissible collateral attack on the Consent Decree entered in Cause CV-10-128-BLG-RFC on November 4, 2010, 2) they are barred by the doctrine of *res judicata*, and 3) the United States is immune from liability for constitutional torts.

ORDERED:

1. Defendants' Motion to Dismiss<sup>3</sup> is GRANTED.
2. Plaintiff's Complaint is DISMISSED with prejudice.
3. The Clerk is directed to enter judgment accordingly.

DATED this 23<sup>rd</sup> day of October, 2013.

  
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SAM E. HADDON  
United States District Judge

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<sup>3</sup> Doc. 3