

IN THE UNITED STATES DISTRICT COURT

FILED
BILLINGS DIV.

FOR THE DISTRICT OF MONTANA

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BILLINGS DIVISION

2009 JUN 29 AM 11 38

PATRICK E. DUFFY, CLERK

ECONOMIC RESEARCH
SERVICES, INC.,

Plaintiffs,

vs.

NORTHWESTERN
CORPORATION,

Defendants.

CV-08-02-~~BEG~~^{Bu}-RFC-CSU DEPUTY CLERK.

ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS OF
U.S. MAGISTRATE JUDGE

On May 28, 2009, United States Magistrate Judge Carolyn S. Ostby entered Findings and Recommendation recommending the dismissal of Counts III and IV of NorthWestern Corporation's Third Party Claim (*Doc. 22*). *Doc. 50*.

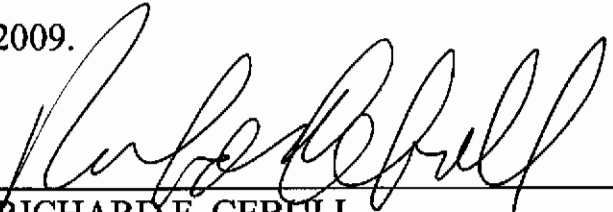
Upon service of a magistrate judge's findings and recommendation, a party has 10 days to file written objections. 28 U.S.C. § 636(b)(1). No objections have yet been filed. This failure to object waives all objections to the findings of fact, *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1999), but does not relieve this Court of its burden to review de novo the magistrate judge's conclusions of law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989).

After a review of the record and applicable law, this Court finds Magistrate Judge Ostby's Findings and Recommendation are well grounded in law and fact and adopts them in their entirety.

Accordingly, **IT IS HEREBY ORDERED** that David Salant and Auction Technologies, Inc.'s Motion to Dismiss, Counts III, *Deceit*, and IV, *Actual Fraud*, of NorthWestern Corporation's Third Party Claim (*Doc. 43*) is **GRANTED**: Counts III and IV of NorthWestern Corporation's Third Party Claim are **DISMISSED WITHOUT PREJUDICE**.

The Clerk of Court shall notify the parties of the entry of this Order.

DATED the 29th day of June 2009.



RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE