

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

THOMAS CREEL LANHAM,	)	CV 12-08-H-DWM-RKS
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER
	)	
MIKE FERRITER, MICHELE LEE	)	
STEYH, BILLIE REICH, BENJAMIN	)	
BOULEY, SHERRY GLOVAN,	)	
RICHARD COLLINS, and LARRY	)	
TENDAL,	)	
	)	
Defendants.	)	
_____	)	

Pending are Motions to Dismiss filed by both parties. United States Magistrate Judge Keith Strong entered Findings and Recommendation on May 18, 2012 and recommended granting Plaintiff Thomas Creel Lanham’s motion to dismiss. Defendants did not timely object to the Findings and Recommendation, and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309,

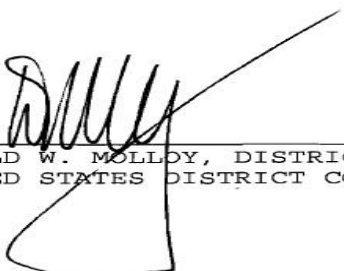
1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Defendants raised two arguments in support of their request that the dismissal be with prejudice. They contended that they have expended substantial time and resources in defending this action, and that they have a pending motion to dismiss for failure to exhaust. Judge Strong found that Defendants failed to demonstrate legal prejudice, and that this matter should be dismissed without prejudice. After a review of Judge Strong’s Findings and Recommendation, I find no clear error. Accordingly,

IT IS HEREBY ORDERED that Judge Strong’s Findings and Recommendation (doc. 32) are adopted in full. Lanham’s motion (doc. 29) is GRANTED and this matter is DISMISSED WITHOUT PREJUDICE.

The Clerk of Court is directed to terminate all other pending motions and to enter, by separate document, a judgment of dismissal.

Dated this 13<sup>th</sup> day of June, 2012.

  
DONALD W. MOLLOY, DISTRICT JUDGE  
UNITED STATES DISTRICT COURT