

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

JERRY O'NEIL,

CAUSE NO. CV 08-91-M-DWM-JCL

Plaintiff,

vs.

FINDINGS AND RECOMMENDATION OF
UNITED STATES MAGISTRATE JUDGE

STATE BAR OF MONTANA,
BETSY BRANDBORG, Bar Counsel for
the State Bar of Montana,
THE MONTANA SUPREME COURT
COMMISSION ON THE UNAUTHORIZED
PRACTICE OF LAW, ELEVENTH JUDICIAL
DISTRICT COURT, THE MONTANA SUPREME
COURT, MIKE McGRATH, Attorney General
of the State of Montana,
MONTANA DEPARTMENT OF PUBLIC HEALTH &
HUMAN SERVICES, OFFICE OF FAIR HEARINGS,
as members of the INTEGRATED BAR OF MONTANA,
DEBORAH PLATT MAJORAS, Chair of the
Federal Trade Commission, and
THOMAS O. BARNETT, Acting Assistant
Attorney General for Antitrust,

Defendants.

Pending before the Court is Defendants Deborah Majoras and Thomas Barnett ("Federal Defendants") Motion to Dismiss filed under Fed. R. Civ. P. 12(b)(1). Ms. Majoras, Chair of the Federal Trade Commission, and Mr. Barnett, the Acting Assistant Attorney General for the Antitrust Division of the Department of Justice, request that the Court dismiss Plaintiff Jerry O'Neil's claims against them, and O'Neil's claims against the Federal

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Trade Commission and the Department of Justice, based on the lack of jurisdiction over the claims.

On December 8, 2008, O'Neil filed his response to the Federal Defendants' Motion to Dismiss. O'Neil states that he concurs with the Federal Defendants' motion, and agrees that the Federal Defendants, and his claims against the Federal Trade Commission and the Department of Justice, should be dismissed.

Therefore, the Court hereby enters the following:

RECOMMENDATION

The Federal Defendants' Motion to Dismiss Federal Defendants for Lack of Subject Matter Jurisdiction should be **GRANTED**.

In view of O'Neil's concession to the propriety of dismissing the Federal Defendants, and in the interest of justice and expediting resolution of the pending Motion to Dismiss, **IT IS HEREBY ORDERED** that the parties shall file any objection they may have to this recommendation, as permitted under Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b)(1)(C), on or before **December 15, 2008**.

DATED this 8th day of December, 2008.

/s/ Jeremiah C. Lynch
Jeremiah C. Lynch
United States Magistrate Judge