

FILED

APR 18 2011

PATRICK E. DUFFY, CLERK
By DEPUTY CLERK, MISSOULA

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

| | | |
|------------------------------|---|--------------------|
| CHARLES ADAM FIECHTNER, SR., |) | CV 11-10-M-DWM-JCL |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | ORDER |
| |) | |
| COOKIES MARKET/GARSON, |) | |
| CHARLES MESSINA, SR., |) | |
| ALBERT MESSINA, |) | |
| DIANE MESSINA, RICHARD |) | |
| DUTSON, and ERIC GARSON, |) | |
| |) | |
| Defendants. |) | |
| _____ |) | |

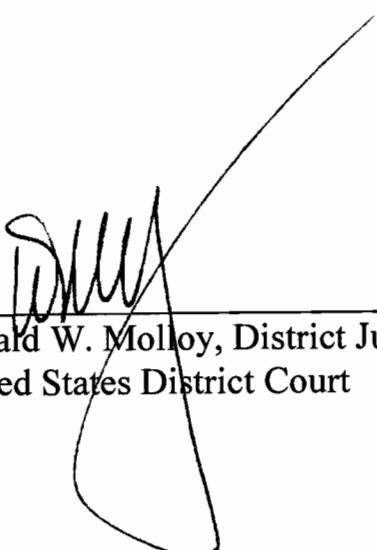
Plaintiff Charles Adam Fiechtner, Sr. filed an Amended Complaint in this action as required by Order dated February 1, 2011. United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation on February 28, 2011 and recommended dismissing Fiechtner's Amended Complaint for lack of proper venue. Plaintiff 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).

After a review of Judge Lynch’s Findings and Recommendation, I find no clear error. Accordingly,

IT IS HEREBY ORDERED that Judge Lynch’s Findings and Recommendation (dkt #9) are adopted in full. This action is DISMISSED for lack of proper venue.

Dated this 15th day of April, 2011.



Donald W. Molloy, District Judge
United States District Court