

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

STEVEN M. DENENBERG,	)	
	)	8:07CV150
Plaintiff,	)	
	)	
v.	)	
	)	ORDER
BORKO B. DJORDJEVIC,	)	
	)	
Defendant.	)	
	)	

This matter is before the court on the findings and recommendation of the magistrate judge that the third party complaint in this case, Filing No. 59, be dismissed as to third party defendant John Osaka. Filing No. 98. No objections have been filed to the findings and recommendation. A district court reviews de novo those portions of a magistrate's order that are objected to by a party. [Grinder v. Gammon, 73 F.3d 793, 792 \(8th Circuit 1996\)](#). "A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1)(2006). A district court may reconsider a magistrate judge's ruling where it has been shown that the ruling is clearly erroneous or contrary to law. [Ferguson v. United States, 484 F.3d 1068, 1076 \(8th Circuit 2007\)](#) (citing 28 U.S.C. § 636(b)(1)(A) (2006)).

Borko B. Djordjevic filed a third party complaint on June 8, 2009. Filing No. 59. He received an extension of time to serve all of the third party defendants by July 24, 2009. Filing No. 63. Osaka has still not been served. The magistrate judge entered an order requiring Djordjevic to show cause why his action against Osaka should not be dismissed

pursuant to Fed. R. Civ. P. 4(m). Filing No. 89. Djordjevic failed to respond. Accordingly, the magistrate judge recommended that this Court dismiss Osaka, without prejudice, pursuant to Fed. R. Civ. P. 4(m). Filing No. 98.

The court has carefully reviewed the record and finds that the magistrate judge's recommendation should be adopted in all respects.

THEREFORE, IT IS ORDERED that:

1. The findings and recommendations of the magistrate judge, Filing No. 98, is adopted in its entirety;
2. John Osaka is dismissed from this case without prejudice; and
3. The Clerk of the Court is directed to amend the caption in this case by terminating John Osaka as a third party defendant.

DATED this 14<sup>th</sup> day of April, 2010.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge