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ADOPTS AND ACCEPTS the Report and Recommendation of the United States Magistrate Judge (#22); therefore, Defendants' Motion to Dismiss (#10) is GRANTED without prejudice.

IT IS FURTHER ORDERED that Defendants' Motion to Strike (#16) is GRANTED and Defendants' Motion for Enlargement of Time (#17) is DENIED AS MOOT.

The Clerk shall enter judgment accordingly.

IT IS SO ORDERED.

DATED this 9th day of March, 2009.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE