

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**JAMES P. MHINA, C.E.O. and J. & W.  
TRADING & LEASING, INC.,**

**PlaintiffS,**

**5:15-cv-327  
(GLS/DEP)**

**v.**

**BETH VAN DOREN, Assistant District  
Attorney for Onondaga County, et al.,**

**Defendants.**

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**APPEARANCES:**

**OF COUNSEL:**

**FOR THE PLAINTIFFS:**

JAMES P. MHINA  
*Pro Se Plaintiff*  
P.O. Box 133  
Syracuse, New York 13201

**Gary L. Sharpe  
District Judge**

**ORDER**

The above-captioned matter comes to this court following a Report, Recommendation, and Order by Magistrate Judge David E. Peebles, duly filed on September 22, 2015. (Dkt. No. 18.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all

objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Report and Recommendation for clear error, it is hereby

**ORDERED** that the Report and Recommendation (Dkt. No. 18) is **ADOPTED** in its entirety; and it is further

**ORDERED** that plaintiff J. & W. Trading and Leasing, Inc. is terminated from the action; and it is further

**ORDERED** that defendant State of New York is dismissed from the action; and it is further

**ORDERED** that the claims asserted against defendants Bank of America, John Doe 5 (identified in the amended complaint as “Bank of America Branch Manager”), and Woodhaven Apartments are dismissed, without prejudice, to plaintiff James Mhina’s right to file a second amended complaint that cures the deficiencies identified in the report-recommendation regarding those claims; and it is further

**ORDERED** that, in the event plaintiff James Mhina does not avail himself of the opportunity to amend, the amended complaint be accepted for filing and defendants be directed to respond, except that the claims asserted against defendants Bank of America, John Doe 5, and

Woodhaven Apartments be dismissed with prejudice; and it is further

**ORDERED** that the clerk of the court serve a copy of this order upon  
the parties in accordance with this court's local rules.

**IT IS SO ORDERED.**

October 15, 2015  
Albany, New York

Gary L. Sharpe  
Gary L. Sharpe  
U.S. District Judge