

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

AURUBIS BUFFALO, INC., f/k/a
LUVATA BUFFALO, INC., and
AIG EUROPE,

Plaintiffs,

v.

DECISION AND ORDER
08-CV-34-A

LOMBARD GENERAL INSURANCE
COMPANY OF CANADA, AVEC
INSURANCE MANAGERS, INC.,
UNISON INSURANCE AND
FINANCIAL SERVICES, INC.,
and BOYD INTERNATIONAL
CONSULTANTS, INC.

Defendants.

This case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1). On August 11, 2011 plaintiff AIG Europe, S.A. (“AIG”) filed a motion for summary judgment and on August 23, 2011 plaintiff Luvata Buffalo, Inc., filed a motion for summary judgment. On September 12, 2011 defendants Lombard General Insurance Company of Canada (“Lombard”) and Avec Insurance Managers, Inc. (“Avec”) filed a cross-motion for summary judgment.

On March 22, 2012, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that Lombard/Avec’s cross-motion for summary judgment [109] be granted and that the motions for summary judgment by Luvata and AIG [103, 107] be denied.

On August 12, 2012, plaintiff AIG joined in the objections. Defendants filed opposition to the objections and plaintiff later replied.

Pursuant to Fed. R. Civ. P. 72(b) and 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. Upon *de novo* review of the Report and Recommendation, and after reviewing the parties' submissions, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, defendants Lombard/Avec's cross-motion for summary judgment [109] is granted and the motions for summary judgment by plaintiffs Luvata and AIG [103, 107] are denied. Neither Lombard General Insurance Company of Canada nor AVEC Insurance Managers were or are required to provide the insurance coverage, payment, or compensation sought in this action by AIG Europe, S.A. or Luvata of Buffalo, Inc. The Clerk shall enter judgment accordingly and close the case..

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: March 29, 2013