UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NEW YORK

ROBERT RUNGE, JOELL RUNGE, and REBECCA RUNGE,

Plaintiffs,

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DECISION AND ORDER 09-CV-792A

ERIE INSURANCE GROUP a/k/a ERIE INSURANCE COMPANY,

Defendant.

This case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1). On March 25, 2010, defendants filed a motion for judgment on the pleadings (Dkt. No. 24). On May 24, 2010, Magistrate Judge Scott filed a Report and Recommendation (Dkt. No. 35), recommending that defendant's motion be granted in part to dismiss that portion of plaintiffs' first cause of action demanding punitive damages; and recommending that the motion otherwise be denied.

Defendant filed objections to the Report and Recommendation on June 7, 2010. Plaintiff filed a response to defendant's objections on July 6, 2010 but did not object to Magistrate Judge Scott's recommendation regarding punitive damages. Defendants filed reply papers on July 13, 2010. The Court has deemed oral argument unnecessary and has considered the motion submitted on papers pursuant to Rule 78(b) of the Federal Rules of Civil Procedure.

Pursuant to 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 a de novo review of the Report and

Recommendation, and after reviewing the submissions from the parties, the

Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Scott's

Report and Recommendation, the Court grants defendant's motion for judgment

on the pleadings (Dkt. No. 24) in part to dismiss that portion of plaintiffs' first

cause of action demanding punitive damages; but otherwise denies the motion.

This case is referred back to Magistrate Judge Scott for further

proceedings.

SO ORDERED.

s / Richard J. Hreara

HONORABLE RICHARD J. ARCARA UNITED STATES DISTRICT JUDGE

DATED: February 22, 2011

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