

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RUSSELL VAN BROCKLEN,

Plaintiff,

v.

ORDER
09-CV-897

DR. DHAM GUPTA,

Defendant.

This case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1)(A). Defendant filed a motion to dismiss the Amended Complaint and plaintiff filed a motion for partial summary judgment. On November 23, 2010, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that both motions be denied.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties and no objections having been timely filed¹, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, both plaintiff's and defendant's motions are denied.

¹ Plaintiff filed objections to the Report and Recommendation on December 9, 2010, however he subsequently filed a motion to withdraw the objections.

This case is referred back to Magistrate Judge McCarthy for further proceedings.

SO ORDERED.

s/ Richard J. Arcara _____

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: January 12, 2011