

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DENNIS SHIPMAN, et al.,

Plaintiffs,

v.

ALDO GELSO, et al.,

Defendants.

CIVIL ACTION NO. 3:11-CV-1162

(JUDGE CAPUTO)

(MAGISTRATE JUDGE SMYSER)

ORDER

NOW this 5th day of June, 2012, upon review of the Report and Recommendation of Magistrate Judge J. Andrew Smyser (Doc. 22) for plain error or manifest injustice, **IT IS HEREBY ORDERED** that:

- (1) The Report and Recommendation (Doc. 22) is **ADOPTED**;
- (2) The Gelso Defendants' Motion to Dismiss is **GRANTED** as to the Plaintiffs' Negligence claim;
- (3) The Gelso Defendants' Motion to Dismiss is **DENIED** in all other respects; and
- (4) This matter is **RECOMMENDED** to the Magistrate Judge.

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge