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

DEBRA MCCARTHY, : No. 3:21cv1759

DEVIN MCARTHY, and

OLUWATOMISIN OLASIMBO, : (Judge Munley)

Plaintiffs : (Magistrate Judge Carlson)

v. :

RAUL JAUREGUI and DANIEL BOYE,

Defendants

ORDER

AND NOW, to wit, this day of March 2024, it is hereby ORDERED

as follows:

Magistrate Judge Martin C. Carlson's report and recommendation

("R&R") (Doc. 43) is **ADOPTED** in part -

- A) The R&R is **ADOPTED** regarding the jurisdictional issue raised as a part of Defendant Daniel Boye's motion to dismiss (Doc. 15) and that portion of the motion is **DENIED**;
- B) The R&R is **ADOPTED** with regard to the portion of Defendant Daniel Boye's motion to dismiss Count 1 of the complaint and that portion of the motion to dismiss is **DENIED**;

- C) The R&R is also **ADOPTED** with regard to the motions to dismiss Count 6 of the complaint, and those portions of the motions to dismiss are **GRANTED**. Count 6 is **DISMISSED**;
- D) The R&R is **ADOPTED** with regard to the portion of Defendant Jauregui's motion to dismiss (Doc. 13) aimed at the intentional infliction of emotional distress claim found in Count 5 and that portion of the motion is **DENIED**;
- E) The R&R is **ADOPTED** with regard to Defendant Daniel Boye's motion for sanctions (Doc. 16) and this motion is **DENIED**;
- 2) The R&R is **NOT ADOPTED** with regard to the motions to dismiss

 Counts 2, 3, and 4 of the amended complaint and the portions of the motions to

 dismiss (Doc. 13, Doc. 15) dealing with these counts are **GRANTED**. Counts 2,

 3, and 4 are **DISMISSED**;
- 3) Remaining in this case are Count 1 Plaintiff Devin McCarthy versus

 Daniel Boye for battery and Count 5 Plaintiff Devin McCarthy versus both

 defendants for intentional infliction of emotional distress. Accordingly, Plaintiffs

 Debra McCarthy and Oluwatomisin Olasimbo are completely dismissed from this

 case; and
- 4) The Clerk of Court is directed to remand this case to Magistrate Judge Carlson for further pretrial management.

BY THE COURT:

JUDGE JULIA K. MUNLEY United States District Court