

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LARRIE D. JEFFERSON, )  
 )  
 )  
                                   *Plaintiff,* )  
 )  
                                   v. )  
 )  
 JOHN E. WETZEL, )  
 et al., )  
                                   *Defendants.* )  
 )  
 \_\_\_\_\_ )

Civil Action No. 16-245 Erie

ORDER

**ORDER ADOPTING REPORT AND RECOMMENDATION**

The Court, having considered the Report and Recommendation of Magistrate Judge Susan Paradise Baxter, there being no objections thereto, and the balance of record, **HEREBY ADOPTS** the Report and Recommendation. Defendants’ motion to dismiss [ECF No. 15] is **GRANTED IN PART** and **DENIED IN PART** as follows:

- (1) The motion to dismiss Plaintiff’s Eighth and Fourteenth Amendment claims against Defendants Wetzel, Varner, Giroux, Clark, Meure and Scott-Clausen (Counts III, IV, V, IX, X (except as to Defendant Behringer), XI, XII, XIII and XIV) is **GRANTED**.
- (2) Defendants’ motion to dismiss Plaintiff’s claim for intentional infliction of emotional distress (Count VIII), as alleged against Defendants Wetzel, Varner, Giroux, Clark, Meure and Scott-Clausen, is **GRANTED**.
- (3) Defendants’ motion to dismiss Plaintiff’s claims for assault and battery, harassment and intentional infliction of emotional distress (Counts VI, VII and VIII), alleged against Defendant Behringer is **DENIED**.

(4) Defendants Wetzel, Varner, Giroux, Clark, Meure and Scott are terminated from the docket.

**IT IS SO ORDERED.**

DATED this 21st day of July, 2017.

A handwritten signature in cursive script that reads "Barbara J. Rothstein".

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BARBARA J. ROTHSTEIN  
UNITED STATES DISTRICT JUDGE