

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

ERIC D. SCHMITT and JEFFREY C.	)	2:09cv1517
SCHMITT,	)	Electronic Filing
	)	
Plaintiffs,	)	Judge David S. Cercone /
	)	Magistrate Judge Lisa Pupo Lenihan
v.	)	
	)	
STATE FARM INSURANCE CO.,	)	
	)	
Defendant.	)	

**MEMORANDUM ORDER**

The above captioned case was initiated by the filing of a Notice of Removal from Allegheny Count (Doc. No. 1) on November 13, 2009. It is assigned to Judge David S. Cercone and referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Report and Recommendation (Doc. No. 11), filed on April 16, 2010, recommended that the Court grant Defendant State Farm Insurance Company's Motion to Dismiss the claim for compensatory damages under Count II of Plaintiff's Complaint (Doc. No. 3). The parties were advised they were allowed fourteen (14) days from the date of service to file written objections to the report and recommendation. No objections have been filed. After review of the pleadings and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 6<sup>th</sup> day of May, 2010;

**IT IS HEREBY ORDERED** that Defendant State Farm Insurance Company's Motion to Dismiss (Doc. No. 3) the claim for compensatory damages under Count II of Plaintiff's Complaint is **GRANTED**.

**IT IS FURTHER ORDERED** that the Report and Recommendation (Doc. No. 11) of Magistrate Judge Lenihan, dated April 16, 2010, is adopted as the opinion of the court.

DS Cerone  
David Stewart Cercone  
United States District Judge

cc: Counsel of record via electronic mail.