

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

DOMINION RETAIL, INC.,	)	
	)	
Plaintiff,	)	Civil Action No. 11-233
	)	
v.	)	Judge Cathy Bissoon
	)	Magistrate Judge Cynthia Reed Eddy
TIM ROGERS, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

On October 27, 2011, this case was referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Rules 72.C and 72.D of the Local Rules for Magistrates.

On May 22, 2012, the Magistrate Judge issued a Report (Doc. 43) recommending that Plaintiff's Motion (Doc. 38) to Dismiss Count III of Defendants' Counterclaim (Doc. 33) be granted. Service of the Report and Recommendation was made on the parties, and Defendants filed Objections on June 5, 2012. *See* Doc. 45.

Defendants' Objections are OVERRULED because the arguments stated therein were rejected, either expressly or by implication, in the Magistrate Judge's Report, which hereby is adopted as the opinion of the District Court.<sup>1</sup> Thus, after a *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation and the Objections

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<sup>1</sup> As the Magistrate Judge correctly observed, Defendants have neither moved for, nor been granted, leave to amend Count III of their Counterclaim. *See* R&R at 11 & n.4. Even had Defendants filed such a motion, Plaintiff has identified substantial grounds for opposing additional amendment. *See* Doc. 42 at 3 n.1 *and* Doc. 46 at 8-9 & n.2.

thereto, the District Court hereby ORDERS that Plaintiff's Motion (**Doc. 38**) to Dismiss  
Count III of Defendants' Counterclaim is **GRANTED**.

June 25, 2012

s\Cathy Bissoon  
Cathy Bissoon  
United States District Judge

cc (via ECF email notification):

All Counsel of Record