

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Joseph L. Miller, III, as personal) Civil Action No. 9:15-3028-BHH
representative of the estate of Evelyn C.)
Manigault Miller,)

Plaintiff,)

vs.)

Berkeley County Sheriff’s Office, PFC Jerry)
Speissegger, officially and individually; AFC)
Ashe , officially and individually; John)
Doe(s), officially and individually; Clifford L.)
McElvogue, officially and individually; H.)
Wayne DeWitt, officially and individually;)
Dana Sports, officially and individually;)
Monica Bracewell, officially and individually;)
Paul Jones, officially and individually; Kim)
Morrison, officially and individually,)

Defendant.)

ORDER AND OPINION

Berkeley County Sheriff’s Office; Jerry)
Speissegger, Jr.; Allen Ashe; Clifford L.)
McElvogue; H. Wayne DeWitt; Randy)
Cannon; Duane Wells; Dana Sports;)
Monica Bracewell; Paul Jones; and Kim)
Morrison,)

Third-Party Plaintiffs,)

vs.)

Southern Health Partners, Inc.; Charles A.)
Bush, M.D.; Thomas P. Brannigan, LPN;)
Heather Varnadore, LPN; Nina Cruz, LPN;)
and Courtney Bowmann, LPN,)

Third-Party Defendants.)
_____)

Plaintiff Joseph L. Miller, III (“Plaintiff”), proceeding *pro se* and *in forma pauperis*,
originally filed this matter in the Court of Common Pleas for Berkeley County, South

Carolina. (ECF No. 1-1). Defendants removed the action to this court on July 31, 2015 (ECF No. 1).

In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of Bristow Marchant for pretrial handling. The matter is now before this Court for review of the Report and Recommendation (“Report”) issued by the Magistrate Judge on June 30, 2016. (ECF No. 74.)

In the Report, the Magistrate Judge recommends that this case be remanded back to state court for disposition of the remaining state law causes of action since all of the federal claims originally asserted in this action has been dismissed. (ECF No. 74.) No Objections have been filed, and the time for doing so expired on July 18, 2016.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270–71, 96 S.Ct. 549, 46 L.Ed.2d 483 (1976). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). However, the Court need not conduct a *de novo* review when a party makes only “general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). In the absence of a timely filed, specific objection, the Magistrate Judge’s conclusions are reviewed only for clear error. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

After a careful review of the record, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error. Accordingly, the Court **ACCEPTS** and incorporates the Report (ECF No. 74), by reference in this Order.

It is therefore **ORDERED** that this action is remanded to the Court of Common Pleas, Berkeley County, South Carolina, for disposition. The Clerk of this Court is directed to forward the file along with a certified copy of this order to the Clerk of Court for Berkeley County.

/s/Bruce Howe Hendricks
United States District Judge

July 28, 2016
Greenville, South Carolina