
**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH—CENTRAL DIVISION**

SAMANTHA HAJICEK,

Plaintiff,

v.

VERNON HEPERI; GLORY DRAKE;
LACEY REYNOLDS; JAY BROWN; JEFF
VEST; CRAIG MERRILL; RYAN JUDD;
BRAD BURR; ROBERTY EYRE; JOHN
DOE #1; JOHN DOE #2; BRIGHAM YOUNG
UNIVERSITY; CORPORATION OF THE
PRESIDENT OF THE CHURCH OF JESUS
CHRIST OF LATTER-DAY SAINTS;
CORPORATION OF THE PRESIDING
BISHOP OF THE CHURCH OF JESUS
CHRIST OF LATTER-DAY SAINTS; THE
CHURCH OF JESUS CHRIST OF LATTER-
DAY SAINTS; ADDIE BRADBURN; and
INTERMOUNTAIN HEALTH CARE,

Defendants.

ORDER

- 1) ADOPTING REPORT AND
RECOMMENDATION (DKT. 42)
TO DISMISS CLAIMS WITHOUT
PREJUDICE AND**
- 2) DISMISSING CASE**

Case No. 2:14-cv-00640

Honorable Robert J. Shelby

Magistrate Judge Evelyn J. Furse

Plaintiff Samantha R. Hajicek, initially acting pro se, filed this suit in September 2014 against fifteen defendants seeking recovery for injuries she allegedly incurred after attending a college bonfire gathering. Ms. Hajicek later obtained counsel, who entered an appearance on her

behalf on April 1, 2015. (Dkt. 35.) Pursuant to stipulated motions Ms. Hajicek filed through counsel, the court dismissed all claims against five of the Defendants.¹

This case was referred to Magistrate Judge Evelyn J. Furse pursuant to 28 U.S.C. § 636(b)(1)(B). (Dkt. 29.) On July 15, 2015, Judge Furse issued a Report and Recommendation (Dkt. 42) in which she recommended dismissing without prejudice all of Ms. Hajicek’s claims against the remaining ten Defendants: Brigham Young University, Vernon Heperi, Glory Drake, Lacey Reynolds, Jay Brown, Jeff Vest, Craig Merrill, Ryan Judd, Brad Burr, and Robert Eyre. (Dkt. 42.) Judge Furse’s Recommendation was based on the fact that Ms. Hajicek, while appearing pro se, had moved the court on January 30, 2105 to dismiss her claims against these Defendants for various reasons—including her inability at that time to retain counsel. (Dkt. 30-1.) Since retaining counsel in April, Ms. Hajicek has not sought to withdraw that Motion.

The court now reviews Judge Furse’s Report and Recommendation. No party has objected to any part of it. In the absence of an Objection served within fourteen days of the Report and Recommendation’s service, the court may apply a “clearly erroneous” standard in its analysis. *See* 28 U.S.C. § 636(b)(1) (requiring de novo determination only “of those portions of the report or specified proposed findings or recommendations to which objection is made.”) and FED.R.CIV.P.72(b)(3) (mandating de novo review for “any part of the magistrate judge’s disposition that has been properly objected to.”) Under this standard, the court will affirm Judge

¹ On May 7, 2015, the court granted a Stipulated Motion to Dismiss with Prejudice all of Plaintiff’s claims against three Defendants (Dkt. 36): Corporation of the President of the Church of Jesus Christ of Latter-Day Saints, Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints, and the Church of Jesus Christ of Latter-Day Saints. (Dkt. 38.) On May 8, 2015, the court granted another Stipulated Motion to Dismiss without prejudice all of Plaintiff’s claims against two additional Defendants (Dkt. 39): Addie Bradburn and Intermountain Healthcare. (Dkt. 41.)

Furse's ruling unless it "is left with the definite and firm conviction that a mistake has been committed." *Ocelot Oil Corp. v. Sparrow Industries*, 847 F.2d 1458, 1464 (10th Cir. 1988) (citations omitted).

The court finds and concludes that Judge Furse's Recommendation that the claims against the remaining ten Defendants be dismissed without prejudice is not mistaken. Rather, it is the correct conclusion to be drawn in light of the facts presented. Ms. Hajicek previously moved to dismiss her claims against these Defendants due to recurring health problems she had and because she had not been able to hire counsel. (Dkt. 30-1.) But even after hiring counsel, she did not withdraw her Motion to Dismiss. The propriety of Judge Furse's Recommendation that Ms. Hajicek's claims should be dismissed is further underscored by the fact that her counsel has not responded to it with an Objection and has likewise not sought to withdraw the initial Motion to Dismiss.

For these reasons, the court ADOPTS IN FULL Judge Furse's Recommendation that all of Ms. Hajicek's claims against the remaining ten Defendants—Brigham Young University, Vernon Heperi, Glory Drake, Lacey Reynolds, Jay Brown, Jeff Vest, Craig Merrill, Ryan Judd, Brad Burr, and Robert Eyre—should be DISMISSED WITHOUT PREJUDICE.

As a result of this ruling, there are no remaining claims asserted in this case. Accordingly, this case is DISMISSED. The court directs the Clerk of Court to close this case.

SO ORDERED this 10th day of August, 2015.

BY THE COURT:



Robert J. Sherry
United States District Court Judge