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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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GUY M. DOMAI,

Plaintiff,

v.

LISA LEPIRE,

Defendant.

**MEMORANDUM DECISION AND  
ORDER ACCEPTING  
[5] REPORT AND RECOMMENDATION  
TO DISMISS COMPLAINT**

Case No. 2:17-cv-00461-DN-BCW

District Judge David Nuffer

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Plaintiff Guy M. Domai (“Plaintiff”) sued defendant Lisa Lepire (“Defendant”) in her capacity as Human Resources Manager at American Express Travel Services (the “Complaint”).<sup>1</sup> Plaintiff, proceeding *pro se*, was allowed to proceed *in forma pauperis*.<sup>2</sup> On May 31, 2017, this action was referred to Magistrate Judge Brooke Wells by District Judge David Nuffer pursuant to [28 U.S.C. § 636\(b\)\(1\)\(B\)](#).<sup>3</sup> The Report and Recommendation issued by Judge Wells on June 28, 2017,<sup>4</sup> recommended *sua sponte* that the Complaint be dismissed.

The parties were notified of their right to file objections to the Report and Recommendation pursuant to [28 U.S.C. § 636\(b\)](#) and [Fed. R. Civ. P. 72\(b\)](#).<sup>5</sup> The Report and Recommendation notified the parties that any objection to the Report and Recommendation was required to be filed within 14 days of receiving it.<sup>6</sup> As of the date of this Memorandum Decision

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<sup>1</sup> Complaint, [docket no. 3](#), filed May 26, 2017.

<sup>2</sup> Order Granting Motion for Leave to Proceed Without Prepayment of Fees, [docket no. 2](#), filed May 26, 2017.

<sup>3</sup> Docket Text Order Referring Case, docket no. 4, filed May 31, 2017.

<sup>4</sup> [Docket no. 5](#).

<sup>5</sup> Report and Recommendation at 4, [docket no. 5](#).

<sup>6</sup> *Id.*

and Order, there are no objections to the Report and Recommendation. The Report and Recommendation mailed to Plaintiffs was returned to the court on July 14, 2017 as undeliverable.<sup>7</sup> Plaintiff has a duty to keep contact information with the court current.<sup>8</sup> The time for objecting has passed.

Pursuant to [28 U.S.C. § 636\(b\)](#) and [Fed. R. Civ. P. 72\(b\)\(3\)](#), *de novo* review of all materials—including the Complaint, the record that was before the magistrate judge, and the reasoning set forth in the Report and Recommendation—has been completed. Under the federal *in forma pauperis* statute, the court shall, at any time, *sua sponte* dismiss a case if the court determines a complaint is frivolous, malicious, or fails to state a claim upon which relief can be granted.<sup>9</sup> Judge Wells reviewed the Complaint under this statute and found that the Complaint is futile because it is barred by the applicable statute of limitations.<sup>10</sup> Based on this analysis and conclusion, the Report and Recommendation is accepted.

### **ORDER**

THEREFORE, IT IS HEREBY ORDERED that the Report and Recommendation<sup>11</sup> is ACCEPTED.

IT IS FURTHER ORDERED that this action is DISMISSED.

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<sup>7</sup> [Docket no. 6](#).

<sup>8</sup> [Hastings v. Sevison](#), No. 2:08CV235DAK, 2009 WL 790010, at \*1 (D. Utah Mar. 24, 2009).

<sup>9</sup> 28 U.S.C. § 1915(e)(2)(B)(i-ii).

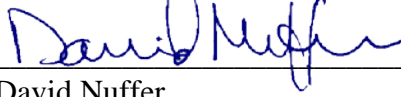
<sup>10</sup> Report and Recommendation at 3, [docket no. 5](#).

<sup>11</sup> *Id.*

The Clerk is directed to close the case.

Dated August 4, 2017.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer

United States District Judge