

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

Robert Hutt, :
Plaintiff, :
 :
v. : File No. 2:08 CV 202
 :
Robert Hofman, Paul Brosseau, :
James Seavey, Joshua Rutherford, :
Stanley Wood, Jeffrey Schmeltz, :
Brian Kerns, Scott Isenor, :
Geoffrey C. Fronberg, :
Kevin Ashburn, Ellen McWard, :
Defendants. :

ORDER

The Report and Recommendation of the United States Magistrate Judge was filed July 29, 2010. Plaintiff's objections were filed August 24, 2010.

A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b) (1); *Perez-Rubio v. Wyckoff*, 718 F.Supp. 217, 227 (S.D.N.Y. 1989). The district judge may "accept, reject, or modify, in whole or in part, the magistrate's proposed findings and recommendations." *Id.*

After careful review of the file, the Magistrate Judge's Report and Recommendation and the objections, this Court ADOPTS the Magistrate Judge's recommendations in full.

IT IS HEREBY ORDERED that the Plaintiff's motion to compel (Doc. 39) is DENIED. It is also ordered that Defendants' motion for summary judgment (Doc. 36) is GRANTED and that this case is DISMISSED.

Pursuant to Fed. R. App. P. 22(b), a certificate of appealability is DENIED because the petitioner has failed to make a substantial showing of denial of a federal right. Furthermore, the petitioner's grounds for relief do not present issues which are debatable among jurists of reasons, which could have been resolved differently, or which deserve further proceedings. See e.g., Flieger v. Delo, 16 F.3rd 878, 882-83 (8th Cir.) cert. denied, 513 U.S. 946 (1994); Sawyer v. Collins, 986 F.2d 1493, 1497 (5th cir.), cert. denied, 508 U.S. 933 (1993).

Furthermore, it is certified that any appeal of this matter would not be taken in good faith, pursuant to 28 U.S.C. § 1915(a)(3).

Dated at Burlington, in the District of Vermont, this 2nd day of September, 2010.

/s/ William K. Sessions III
William K. Sessions III
Chief Judge