

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT**

Robert Avallone,	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 5:06-CV-253
	)	
Robert Hofmann, Lesa Trowt, Dr. Susan	)	
Wehry, John Doe, Jane Doe, Dr. John	)	
Leppman, Dr. Rousse, Prison Health	)	
Services, Inc., Dr. Ballard, MHM	)	
Correctional Services, Inc.,	)	
Defendants	)	

**ORDER**

The Report and Recommendation of the United States Magistrate Judge was filed February 4, 2010. No party has filed an objection.

The 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, the Court hereby ADOPTS the Magistrate Judge’s recommendations in full.

The motion to dismiss filed by defendants Dr. Ballard and MHM (Doc. 80) is thus hereby DENIED. Mr. Avallone shall be allowed 30 days to respond from the date of this Order to all discovery requests that are presently outstanding. If Mr. Avallone fails to comply, the Court shall dismiss this action with prejudice, *sua sponte*, under Fed.R.Civ.P. 37(b)(2) and Fed.R.Civ.P. 16(f) for failure to obey a discovery order. No further action will be required on the part of the Defendants.

SO ORDERED,

Dated at Burlington, District of Vermont this 15th day of March, 2010.

/s/Christina Reiss  
Hon. Christina Reiss  
United States District Judge