

IN THE UNITED STATES DISTRICT COURT

**FILED**

FOR THE DISTRICT OF MONTANA

APR 12 2012

BILLINGS DIVISION

PATRICK E. DUFFY CLERK  
BY \_\_\_\_\_  
Deputy Clerk  
U.S. DISTRICT COURT  
BILLINGS DIVISION

SUSAN F. FISH,

CV-11-99-BLG-RFC-CSO

**Plaintiff,**

vs.

**ORDER ADOPTING FINDINGS  
AND RECOMMENDATIONS OF  
U.S. MAGISTRATE JUDGE**

JO ACTON, ROBERT PAUL, SUE  
ORAND, ANNAMAE DERRICK,  
MARK HARTMAN, CHARLOTTE  
DOLEZAL, and MIKE FERRITER,

**Defendants.**

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United States Magistrate Judge Carolyn Ostby has entered Findings and Recommendation recommending that Fish's Motion for Default Judgment (*doc. 11*) be denied and that Defendants' Motion to Dismiss (*doc. 12*) also be denied. *Doc. 16.* Judge Ostby recommends the motion to dismiss be denied because (1) Defendants did not comply with L.R. 7.1(c) by stating whether they confirmed Fish's consent or opposition before filing their motion and (2) there is good cause for extending the time for service of the Complaint since Fish is a prisoner proceeding pro se whose only failure in service was failing to provide copies of

the Complaint to the Sheriff's Deputies she hired to serve this lawsuit. Since Fish has not properly served the Complaint, Judge Ostby recommends her Motion for Default Judgment be denied.

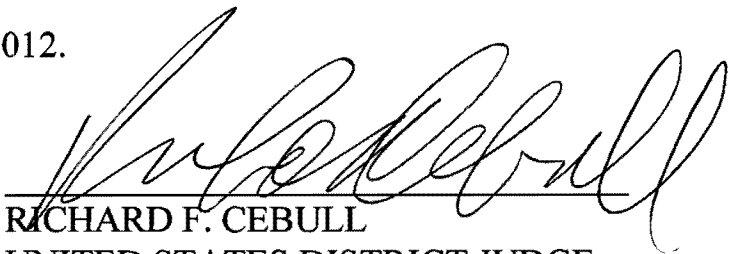
Upon service of a magistrate judge's findings and recommendation, a party has 14 days to file written objections. 28 U.S.C. § 636(b)(1). In this matter, no party filed objections. While this failure to object to results in a waiver of all objections to the findings of fact, *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1999), it does not relieve this Court of its burden to review de novo the magistrate judge's conclusions of law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989).

After an extensive review of the record and applicable law, this Court finds Magistrate Judge Ostby's Findings and Recommendation are well grounded in law and fact and adopts them in their entirety.

Accordingly, **IT IS HEREBY ORDERED** that Fish's Motion for Default Judgment (*doc. 11*) is **DENIED** and Defendants' Motion to Dismiss (*doc. 12*) is **DENIED**.

The Clerk of Court shall notify the parties of the entry of this Order.

DATED the 12<sup>th</sup> day of April, 2012.

  
RICHARD F. CEBULL  
UNITED STATES DISTRICT JUDGE