

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DINO J. SAVOCA,

Plaintiff,

-against-

1:08-CV-887
(LEK/RFT)

CLEARVIEW CENTER, INC., *et al.*,

Defendants.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on October 28, 2008 by the Honorable Randolph F. Treece, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3 of the Northern District of New York. Report-Rec. (Dkt. No. 4). After ten days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections by Dino Savoca, which were filed on November 4, 2008. Objections (Dkt. No. 5).

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A [district] judge... may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* This Court has considered the objections and has undertaken a de novo review of the record and has determined that the Report-Recommendation should be approved for the reasons stated therein.¹

¹ The Court notes for clarification to the Plaintiff that the dismissal is due to failure to establish the **federal** court’s jurisdiction, and does not address any possible **state** court jurisdiction.

Accordingly, it is hereby

ORDERED, that the Report-Recommendation (Dkt. No. 4) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

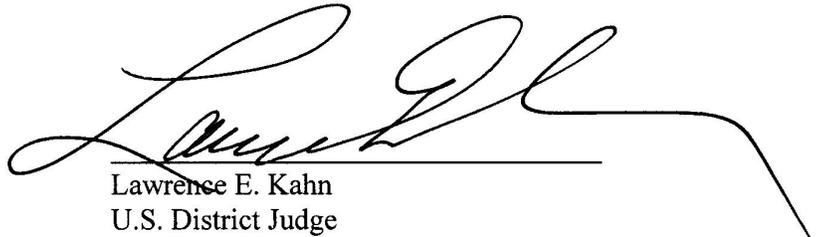
ORDERED, that Plaintiff's Complaint (Dkt. No. 1) is **DISMISSED** for failure to establish subject matter jurisdiction; and it is further

ORDERED, that Plaintiff's Motion to proceed in forma pauperis is **DISMISSED without prejudice** because the Court lacks jurisdiction; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: December 08, 2008
Albany, New York



Lawrence E. Kahn
U.S. District Judge