

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

THOMAS M. MANGAN,)
)
 PLAINTIFF)
)
v.)
)
THUY THI RUMO,)
)
 DEFENDANT)

Civil No. 02-26-P-H

ORDER AFFIRMING RECOMMENDED DECISION OF THE MAGISTRATE JUDGE

The United States Magistrate Judge filed with the court on May 8, 2002, with copies to the parties, his Recommended Decision on Plaintiff's Motion to Dismiss Counterclaims and Defendant's Motion for Partial Judgment on Pleadings.

The plaintiff filed an objection to the Recommended Decision on May 20, 2002. I have reviewed and considered the Recommended Decision, together with the entire record; I have made a *de novo* determination of all matters adjudicated by the Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in his Recommended Decision, and determine that no further proceeding is necessary.

The Magistrate Judge was clearly correct in ruling that the defendant was entitled to judgment on the pleadings on Counts I and II. The plaintiff, however, asserts that he has evidence to support his position that the defendant was out of state, tolling the statute of limitations, for enough time to permit his claims to proceed. If he can make those claims within the strictures of Rule 11, he can move

to amend his complaint accordingly, and the Court will have to assess whether a late amendment is justified. (I observe that the Recommended Decision issued before the deadline for amending the pleadings had passed.)

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **ADOPTED**. The plaintiff's motion to dismiss the counterclaim is **DENIED** and the defendant's motion for judgment on the pleadings as to Counts I and II of the Complaint is **GRANTED**.

So ORDERED.

DATED: MAY 29, 2002.

D. BROCK HORNBY
UNITED STATES CHIEF DISTRICT JUDGE