

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

Angela Marie Theriault,  
Plaintiff

v.

University of Southern Maine, et al,  
Defendants

Civil No. 03-38-P-C

**ORDER AFFIRMING THE RECOMMENDED  
DECISION OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge having filed with the Court on August 31, 2004, with copies to counsel, his Recommended Decision on 42 U.S.C. § 1983 on Defendants' Motion for Summary Judgment filed on February 6, 2004 (Docket Item No. 41); Plaintiff having filed her Objection to the Recommended Decision on September 14, 2004 (Docket Item No. 82);<sup>1</sup> Defendant having filed its Response to Plaintiff's Objection to the Recommended Decision on September 27, 2004 (Docket Item No. 83); and this Court having reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; and this Court having made a *de novo* determination of all matters adjudicated by the Magistrate Judge's Recommended Decision, and concurring in part with the recommendations of the United States Magistrate Judge for the reasons set

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<sup>1</sup> Plaintiff has objected only to the recommendations relating to disposition of Counts V, IX, and X.

forth in his Recommended Decision, and having determined that no further proceeding is necessary; it is

**ORDERED** as follows:

1. The objection of the Plaintiff is **DENIED**;
2. The Recommended Decision of the Magistrate Judge is hereby **AFFIRMED** as to the disposition of Counts V (to the extent that it asserts any claims based upon federal law) and IX of the Complaint and is otherwise **REJECTED**;
3. The Defendant's Motion for Summary Judgment be, and it is hereby, **GRANTED**, in part, and judgment is hereby entered on Count V (to the extent that it asserts any claim based upon federal law) and on Count IX of the Complaint in favor of the Defendants named in each and against the Plaintiff;
4. Counts VI-VIII and X-XIII are hereby **REMANDED** to the State Court from which they were removed for such further procedures thereon as the State Court shall find appropriate;<sup>2</sup>
5. Plaintiff's request for oral argument is hereby **DENIED**.

**SO ORDERED**.

/s/Gene Carter

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GENE CARTER  
Senior United States District Judge

Dated at Portland, Maine this 30th day of September, 2004.

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<sup>2</sup> With the entry of judgment on Counts V and IX, all the remaining claims in the case (Counts I-IV having previously been dismissed) are based upon state law. No basis of federal jurisdiction over those claims independent of their association with the federal claims pendente lite is reflected in the record. Pursuant to UMW v. Gibbs, 383 U.S. 715 (1966) the Court declines to exercise jurisdiction pendente lite over those claims on the basis, inter alia, of considerations of comity and judicial economy. See Snowden v. Millinocket Regional Hospital, 727 F.Supp. 701 (D.Me. 1990); McInnis-Misenor v. Maine Medical Center, 319 F.3d 63, at 73-4 (1<sup>st</sup> Cir. 2003); Camelio v. American Federation, 137 F.3d 666, at 672 (1<sup>st</sup> Cir. 1998).

**PARTIES TO THE CASE-**

**TOWN OF GORHAM**

*Added: 08/06/2003*  
*(Interested Party)*

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*Added: 02/07/2003*  
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