

- B. The Magistrate erred in overlooking, misinterpreting, or ignoring Teresa Fetters' testimony that the plaintiff was told not to use the slicer without the safety guard in place. (Pl. Exh 12, Def. Exh. A, Fetters depo. pp. 13, 34)
- C. The Magistrate erred in deciding that plaintiff (a convicted felon) was more credible in his testimony that he was given a direct order to use the cheese slicer when Teresa Fetters testified to the contrary. (Pl. Exh 12, Def. Exh. A, Fetters depo. p. 34; Plaintiff's trial test. p. 8; Magistrate's Decision p. 5)
- D. The Magistrate erred in assigning any credibility to plaintiff's testimony when he repeatedly contradicted his prior sworn testimony at trial. (Plaintiff's trial test. pp. 23- 29, 30-31, 37-38, 38-40)
- E. The Magistrate erred in finding credibility to convicted murderer inmate Samber who testified that plaintiff only used the slicer for "not more than three minutes" (Magistrate's decision, p. 3), when this is contradicted by plaintiff's own trial testimony of using the slicer for 15-20 minutes before his injury (Plaintiff's trial test. p. 30).
- F. The Magistrate erred in overlooking, misinterpreting, or ignoring evidence that the plaintiff admitted his own fault for the accident to Correctional Officer Governor Thompson. (Def. Exh. B, p. 8)
- G. The Magistrate erred in overlooking, misinterpreting, or ignoring evidence that plaintiff knew, prior to the accident, to keep his hands away from the moving slicer blade as that had been explained to him by inmate Samber prior to the accident (Pl. Exh. 13, Samber depo. p. 24) and admitted by plaintiff (Plaintiff's trial test. p. 30)
- H. The Magistrate erred in not finding plaintiff at least 51% at fault as he admitted that if he had turned off the slicer between slicing blocks of cheese he would not have cut off his fingers. (Id. p. 40).
- I. The Magistrate erred in not finding plaintiff at least 51% at fault for his injuries when he made a clear admission of negligence when he testified as follows: "**If the machine was off my wouldn't have got (sic) cut off, yes. I think that's common sense, yes.**" (Id. p. 40)
- J. The Magistrate erred in not finding plaintiff at least 51% at fault when plaintiff testified that his injury was caused when he put his hand in the moving slicer blade when he was placing a new block of cheese on the slicer. (Id. p. 47)
- K. The Magistrate's Decision is against the manifest weight of the evidence.
- L. The Magistrate erred as a matter of law in finding that Defendant's acts and/or omissions caused plaintiff's injury.

M. DRC breached no duty in this case and was not a proximate cause of this injury.

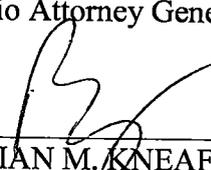
N. Defendant incorporates all other objections contained in the Introduction and Conclusion.

III. CONCLUSION

The Magistrate's Decision in this case overlooks, misinterprets, or ignores the evidence that plaintiff's actions (by his own admission) were the proximate cause of his injuries. It further overlooks, misinterprets, or ignores the testimony of both DRC employees (Fetters and Thompson) that plaintiff refused to use a safety guard and admitted to causing the accident. The Magistrate's Decision gives undeserved credibility to plaintiff who was clearly less credible than the DRC witnesses in this case. For the foregoing reasons, Defendant's Objections should be sustained and the Magistrate's Decision reversed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Defendant's Objections to Magistrate's Decision* was sent by regular U.S. Mail, postage prepaid, this 10th day of March, 2015 to:

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