

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Action No. 12-cv-1720-WJM-KLM

FRANKIE L. MCCONNELL,

Plaintiff,

v.

ISABELLA LEBMANN, and
MARSHALL MILLER,

Defendants.

**ORDER ADOPTING APRIL 25, 2014 AND JUNE 3, 2014 RECOMMENDATIONS OF
MAGISTRATE JUDGE, AND DISMISSING CLAIMS AGAINST BOTH DEFENDANTS**

This matter is before the Court on two Recommendations of United States Magistrate Judge Kristen L. Mix dated April 25, 2014 (the “Lebmann Recommendation”) (ECF No. 33) and June 3, 2014 (the “Miller Recommendation”) (ECF No. 39) (jointly the “Recommendations”). Magistrate Judge Mix recommends that both Defendants be dismissed from this action pursuant to Federal Rule of Civil Procedure 4(m). The Recommendations are incorporated herein by reference. See 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b).

Both Recommendations advised the parties that specific written objections were due within fourteen days after being served with a copy of the Recommendation. (ECF Nos. 33 at 4; 39 at 4.) Despite these advisements, no objection to the Miller Recommendation has to date been received.

As to the Lebmann Recommendation, on May 13, 2014, Plaintiff filed a letter entitled “Objections”. (ECF No. 37.) However, this letter discusses the merits of

Plaintiff's claims instead of addressing the need for service on the Defendants, which was the basis for the Recommendations. (See *id.*) On May 19, 2014, Plaintiff filed a second letter that addressed the service issue as follows: "I try several things in tried locate Isabella Lebmann. Unable found address or phone number and work locate" [*sic*]. (ECF No. 38 at 1.) As neither of these filings contain any specific objection to any of the findings or conclusions in the Lebmann Recommendation, the Court finds that *de novo* review is not required. Compare Fed. R. Civ. P. 72(b)(3) (requiring that the district judge "determine *de novo* any part of the magistrate judge's [recommendation] that has been properly objected to."), with *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (in the absence of a timely and specific objection, "the district court may review a magistrate . . . [judge's] report under any standard it deems appropriate.").

The Court has reviewed both Recommendations and concludes that the Magistrate Judge's analysis was thorough and sound, and that there is no clear error on the face of the record. See Fed. R. Civ. P. 72(b) advisory committee's note ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."); see also *Summers*, 927 F.2d at 1167.

In accordance with the foregoing, the Court ORDERS as follows:

- (1) The Magistrate Judge's April 25, 2014 Recommendation (ECF No. 33) is ADOPTED in its entirety;
- (2) The Magistrate Judge's June 3, 2014 Recommendation (ECF No. 39) is ADOPTED in its entirety;
- (3) Pursuant to Fed. R. Civ. P. 4(m), all claims against Defendants Marshall Miller

and Isabella Lebmann are hereby DISMISSED WITHOUT PREJUDICE; and

- (4) As there are no Defendants remaining in this action, Plaintiff's Complaint is DISMISSED in its entirety. Each party shall pay her or his own attorney's fees and costs.

Dated this 8th day of July, 2014.

BY THE COURT:



William J. Martínez
United States District Judge