

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge Wiley Y. Daniel

Civil Action No. 12-cv-02834-WYD-MJW

NATIONAL JEWISH HEALTH, a Colorado non-profit corporation,

Plaintiff,

v.

WEBMD HEALTH SERVICES GROUP, INC., and,
WEBMD HEALTH CORP.,

Defendants.

ORDER AFFIRMING AND ADOPTING RECOMMENDATION OF SPECIAL MASTER

THIS MATTER is before the Court on plaintiff, National Jewish Health's, Motion For Rule 37 Sanctions [ECF No. 72] and Special Master, Ronald J. Hedges', Findings Of Fact And Conclusions Of Law On Plaintiff's Motion For Sanctions And Recommendation ("Recommendation") [ECF No. 156]. On January 13, 2014, Magistrate Judge Watanabe appointed Ronald J. Hedges, retired Magistrate Judge, as a Special Master to resolve National Jewish Health's Motion For Rule 37 Sanctions [ECF No. 72]. ECF No. 102. On March 24, 2014, Special Master Hedges issued his Recommendation [ECF No. 156] and stated that National Jewish Health's Motion For Rule 37 Sanctions [ECF No. 72] should be denied. The Recommendation is incorporated herein by reference. See 28 U.S.C. § 636(b)(1), Rule 72(b) of the FEDERAL RULES of CIVIL PROCEDURE, D.C.COLO.LCivR. 72.1.

Special Master Hedges advised the parties that they may object to the Recommendation within the time frame provided by FED. R. CIV. P. 72, which is 14 days

after service of a copy of the Recommendation. ECF No. 156, p. 18. As of Wednesday, May 21, 2014, no party has filed objections. Because the parties did not file objections, I am vested with discretion to review the Recommendation “under any standard [I] deem[] appropriate.” *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (stating that “[i]t does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings”). Nonetheless, though not required to do so, I review the Recommendation to “satisfy [my]self that there is no clear error on the face of the record.”¹ Advisory Committee Notes to FED. R. CIV. P. 72(b).

Having reviewed the Recommendation, I am satisfied that there is no clear error on the face of the record. I find that Special Master Hedges’ Recommendation is thorough, well-reasoned, and sound. Further, I agree that National Jewish Health’s Motion For Rule 37 Sanctions [ECF No. 72] should be denied.

CONCLUSION

After careful consideration of the matters before this Court, it is
ORDERED that Special Master Hedges’ Recommendation [ECF No. 156] is
AFFIRMED and **ADOPTED**. As such, it is
FURTHER ORDERED that National Jewish Health’s Motion For Rule 37
Sanctions [ECF No. 72] is **DENIED**.

Dated: May 21, 2014.

¹ Note, this standard of review is something less than a “clearly erroneous or contrary to law” standard of review, FED. R. CIV. P. 72(a), which in turn is less than a *de novo* review, FED. R. CIV. P. 72(b).

BY THE COURT:

/s/ Wiley Y. Daniel

Wiley Y. Daniel

Senior U.S. District Judge