

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 16-cv-02144-PAB-STV

KEVIN HENRY,

Plaintiff,

v.

THE BANK OF NEW YORK MELLON,

Defendant.

ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION

This matter is before the Court on the Recommendation of United States Magistrate Judge Scott T. Varholak filed on December 5, 2017 [Docket No. 72]. The Recommendation states that objections to the Recommendation must be filed within fourteen days after its service on the parties. See 28 U.S.C. § 636(b)(1)(C). The Recommendation was served on December 5, 2017. No party has objected to the Recommendation.

In the absence of an objection, the district court may review a magistrate judge's recommendation under any standard it deems appropriate. See *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“[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”). In this matter, the Court has reviewed the

Recommendation to satisfy itself that there is “no clear error on the face of the record.”¹
Fed. R. Civ. P. 72(b), Advisory Committee Notes. Based on this review, the Court has
concluded that the Recommendation is a correct application of the facts and the law.

Accordingly, it is

ORDERED as follows:

1. The Recommendation of United States Magistrate Judge [Docket No. 72] is
accepted.

2. This case is remanded to the El Paso County District Court, where it was filed
as Case No. 2016CV268.

DATED January 9, 2018.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge

¹This 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).