

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Raymond P. Moore**

Civil Action No. 1:19-cv-01359-RM-NYW

BRIAN WILLIAM WALLACE,

Plaintiff,

v.

CAPITAL ONE BANK (USA), N.A. d/b/a Capital One,  
SCRIBD, INC., and  
C.A. HARRISON ENTERPRISES d/b/a Background USA, Inc. d/b/a Vital Records USA,

Defendants.

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**ORDER**

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This matter is before the Court on the August 23, 2019, recommendation of United States Magistrate Judge Nina Y. Wang (ECF No. 49) to grant Plaintiff's motion to dismiss this case without prejudice (ECF No. 47) and to deny as moot two other pending motions to dismiss (ECF Nos. 23, 24). The Court adopts the recommendation, and it is incorporated herein by reference. *See* 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b).

The recommendation advised the parties that specific written objections were due within fourteen days after being served with a copy of the recommendation. No party objected to the recommendation, and the time to do so has expired. "In the absence of a timely objection, the district court may review a magistrate judge's report under any standard it deems appropriate." *Summers v. State of Utah*, 927 F.3d 1165, 1167 (10th Cir. 1991).

The magistrate judge evaluated Plaintiff's motion and determined that it should be construed as a notice of dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) and that the case

should be dismissed without prejudice. The Court discerns no error with respect to the magistrate judge's analysis and agrees with her recommendation.

Therefore, the Court ACCEPTS and ADOPTS the recommendation (ECF No. 49) and GRANTS the motion to dismiss this case without prejudice (ECF No. 47), DENIES AS MOOT the pending motions to dismiss (ECF Nos. 23, 24), and directs the Clerk to CLOSE this case.

DATED this 7th day of October, 2019.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Raymond P. Moore", written over a horizontal line.

RAYMOND P. MOORE  
United States District Judge