

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 20-cv-00232-CMA-GPG

ARRON PISANI,

Plaintiff,

v.

THE RITZ-CARLTON HOTEL COMPANY, *a limited liability company*, and
PATRICK HARRINGTON,

Defendants.

**ORDER AFFIRMING AND ADOPTING RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This matter is before the Court on the Recommendation (Doc. # 59) of Magistrate Judge Gordon P. Gallagher regarding Plaintiff's Second Motion to Amend Complaint (Doc. # 53). The Court affirms and adopts Judge Gallagher's Recommendation for the following reasons.

This case arises from an alleged assault at the Ritz-Carlton Hotel in Avon, Colorado. (Doc. # 6). Plaintiff claims that Defendant Patrick Harrington ("Harrington") attacked him at the hotel bar. (Doc. # 6). Plaintiff sued Harrington and the Ritz-Carlton, asserting claims for battery (against Harrington) and premises liability (against the Ritz-Carlton). (Doc. # 6).

Nearly nine months after the Complaint was filed, Plaintiff had still not managed to effect proper service on Harrington. (Doc. # 48). Harrington moved to dismiss the

claims against him for lack of service, and this Court granted the motion on Judge Gallagher's recommendation. (Docs. ## 48, 50). Plaintiff then voluntarily dismissed his claims against Ritz-Carlton. (Doc. # 57). Thus, all claims and defendants have been dismissed.

Plaintiff now seeks to amend his Complaint to re-assert the claims against Harrington. (Doc. # 53). Judge Gallagher recommends denying the Motion on the ground that it would effectively be an end-run around the service rules. (Doc. # 59). Plaintiff does not object to Judge Gallagher's Recommendation.¹

When a magistrate judge issues a recommendation on a dispositive matter, Federal Rule of Civil Procedure 72(b)(3) requires that the district judge "determine *de novo* any part of the magistrate judge's [recommended] disposition that has been properly objected to." In the absence of a timely objection, however, "the district court may review a magistrate [judge's] report under any standard it deems appropriate." *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (citing *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.")). Applying this standard, the Court concludes that Judge Gallagher's reasoning is sound, and his recommendation is correct.

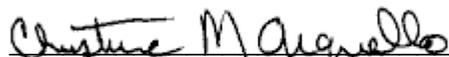
¹ Judge Gallagher's Recommendation advised Plaintiff that any objection to the Recommendation was due within 14 days after the Recommendation was issued. (Doc. # 59, p. 1, n. 2). No objection was filed.

Plaintiff failed to effect timely service on Harrington, and as a result, his claims against Harrington were dismissed. The remaining claims and defendant were also dismissed, and the case is now closed. Plaintiff is now effectively seeking to circumvent the service rules so he can pursue claims against Harrington without effecting proper service. Plaintiff has not provided any acceptable reason why this Court should allow him to do so.

For the foregoing reasons, the Recommendation of Magistrate Judge Gallagher (Doc. # 59) is AFFIRMED AND ADOPTED as an order of this Court. Plaintiff's Motion (Doc. # 53) is DENIED.

DATED: January 8, 2021

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge