

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Charlotte N. Sweeney

Civil Action No. 1:23-cv-00443-CNS-KAS

RAYMOND TODD SURFACE,

Plaintiff,

v.

VICTOR F. CIARDELLI, CEO of Guaranteed Rate, Inc., and
ROBERT CARUSO, CEO of ServiceMac, LLC,

Defendants.

ORDER

Before the Court is the Report and Recommendation by United States Magistrate Judge Kathryn A. Starnella issued on January 19, 2024, recommending that Defendant Victor F. Ciardelli's Motion to Dismiss or Alternatively to Strike Plaintiff's Filing [Dkt. 1] be granted (ECF Nos. 17, 25). For the following reasons, the Court AFFIRMS and ADOPTS the Recommendation.

The parties were advised that they had 14 days, after being served with a copy of the Recommendation, to file written objections in order to obtain reconsideration by the District Judge assigned to the case (see ECF No. 25 at 12 (citing Fed. R. Civ. P.

72(b)(2)).¹ Neither party has filed an objection to Magistrate Judge Starnella's Recommendation.

Under 28 U.S.C. § 636(b)(1)(B), this Court may designate a magistrate judge to consider dispositive motions and submit recommendations to the Court. When a magistrate judge submits a recommendation, the Court must "determine de novo any part of the magistrate judge's [recommended] disposition that has been properly objected to." Fed. R. Civ. P. 72(b)(3). A party's failure to file such written objections may bar the party from a de novo determination by the District Judge of the proposed findings and recommendations. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). When this occurs, the Court is "accorded considerable discretion" and "may review a magistrate's report under any standard it deems appropriate." *Summers v. State of Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (citing *Thomas*, 474 U.S. at 150).

After reviewing all the relevant pleadings, the Court concludes that Magistrate Judge Starnella's analysis was thorough and comprehensive, the Recommendation is well-reasoned, and the Court finds no clear error on the face of the record. As such, the Court AFFIRMS and ADOPTS Magistrate Judge Starnella's Recommendation as an Order of this Court (ECF No. 25).

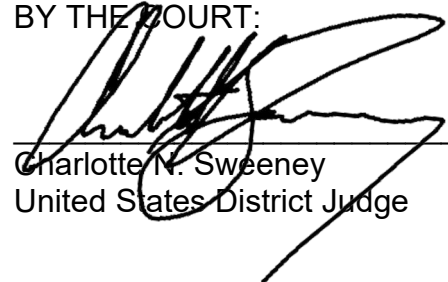
¹ It appears from the docket that service upon Plaintiff of the Magistrate Judge's Recommendation was returned to the Court as undeliverable, likely because Plaintiff has not provided a current mailing address (see ECF No. 27). Of note, all parties—including *pro se* litigants—are required to update their contact information no later than five days after any change. See D.C.COLO.LCivR 5.1(c). Although mindful that Plaintiff is proceeding *pro se* in this matter, the Court nevertheless will not act as a *pro se* party's advocate, and such a party is governed by the same procedural rules and requirements of substantive law that govern other litigants. See *Dodson v. Bd. of Cnty. Comm'rs*, 878 F.Supp.2d 1227, 1235–36 (D. Colo. 2012).

Accordingly, the Court ORDERS as follows:

- (1) Defendant's Motion to Dismiss or Alternatively to Strike Plaintiff's Filing [Dkt. 1] is GRANTED (ECF No. 17); and
- (2) Pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(5), Plaintiff's complaint, styled as a "Miscellaneous Filing & Repository," is DISMISSED WITHOUT PREJUDICE as to Defendant Victor F. Ciardelli (ECF No. 1).

DATED this 7th day of February 2024.

BY THE COURT:



Charlotte M. Sweeney
United States District Judge