

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

SECRETARY OF LABOR, UNITED
STATES DEPARTMENT OF LABOR,

Plaintiff,

v.

Case No. 6:17-cv-855-Orl-37KRS

GENERAL PROJECTION SYSTEMS,
INC.; CHERYL WAYSON; DRAKE
WAYSON; GENERAL PROJECTION
SYSTEMS, INC. 401(K) PLAN; and
GENERAL PROJECTION SYSTEMS,
INC. GROUP HEALTH PLAN,

Defendants.

ORDER

Plaintiff initiated this action under the Employee Retirement Income Security Act against Defendants, including Drake Wayson (“**Mr. Wayson**”). (Doc. 1.) Plaintiff then filed proofs of service for each Defendant. (Docs. 35, 36, 37, 39.) On review, however, Plaintiff filed a proof of service with a summons issued to the “Estate of Drake Wayson” (“**Estate**”), instead of “Mr. Wayson.” (Doc. 39.) Thereafter, U.S. Magistrate Judge Karla R. Spaulding ordered Plaintiff to show cause why the claims against Mr. Wayson should not be dismissed for failure to timely effect service on him under Federal Rule of Civil Procedure 4(m) and for failure to timely move to substitute the Estate as a party under Rule 25. (Doc. 45.) In response, Plaintiff represented that it did not object to the dismissal of the claims against Mr. Wayson. (Doc. 47.) Based on this representation, Magistrate

Judge Spaulding issued a Report recommending that the Court dismiss these claims without prejudice. (Doc. 48 (“**R&R**”).)

No party objected to the R&R, and the time for doing so has now passed. Absent objections, the Court has examined the R&R only for clear error. *See Wiand v. Wells Fargo Bank, N.A.*, No. 8:12-cv-557-T-27EAJ, 2016 WL 355490, at *1 (M.D. Fla. Jan. 28, 2016); *see also Marcort v. Prem, Inc.*, 208 F. App’x 781, 784 (11th Cir. 2006). Finding none, the Court concludes that the R&R is due to be adopted in its entirety.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. U.S. Magistrate Judge Karla R. Spaulding’s Report and Recommendation (Doc. 48) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. Plaintiff’s claims against Drake Wayson (Doc. 1, ¶¶ 45–57) are **DISMISSED WITHOUT PREJUDICE**.
3. The Clerk is **DIRECTED** to **TERMINATE** Drake Wayson as a party.

DONE AND ORDERED in Chambers in Orlando, Florida, on April 11, 2018.




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record
Pro se party