

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

ERIC L. JOHNSON,)	
)	
Plaintiff,)	
)	
v.)	Cause No.: 1:20-CV-00256-HAB-SLC
)	
ANDOVER MANAGEMENT CORP.,)	
also known as, IGC RESIDENTIAL)	
BUSINESS PROPERTY, d/b/a AUTUMN)	
CREEK APARTMENTS)	
)	
Defendant.)	

**OPINION AND ORDER ADOPTING THE MAGISTRATE
JUDGE’S REPORT AND RECOMMENDATION**

This matter is before the Court for an Order on the Magistrate Judge’s Report and Recommendation (“R & R”) wherein the Magistrate Judge *sua sponte* recommends that Johnson’s claims against Defendant Andover be DISMISSED WITH PREJUDICE for failure to prosecute under Fed.R.Civ.P. 41(b) and that Andover’s Supplemental Counterclaim for Attorney Fees be DISMISSED WITHOUT PREJUDICE to refiling in state court. (ECF No. 35). The parties had fourteen days after being served with a copy of the R & R to file written objections with the Clerk of Court. No objections to the R&R have been filed.

The undersigned has reviewed the Magistrate Judge’s R & R and the conclusions therein that the Plaintiff has failed to appear to prosecute his discrimination claims against the Defendant despite multiple opportunities and requests from the Court to do so. The Court set hearing dates on August 19, September 8, and September 21, 2021, and ordered Johnson to appear telephonically. While counsel appeared, Johnson did not. (ECF Nos. 28, 31, 34). After the first two non-appearances, the Court issued a show cause notice expressly advising Johnson that his continued failure to appear could result in dismissal of his case. (ECF No. 29, 32). Following the

September 21, 2021, hearing at which Johnson failed again to appear, the Magistrate Judge issued the R & R recommending Johnson's claims against Andover be DISMISSED WITH PREJUDICE for failure to prosecute. The Magistrate Judge further recommended that Andover's supplemental counterclaim for fees be DISMISSED WITHOUT PREJUDICE to refiling in state court. After review of the R & R and the reasoning contained therein, the determinations by the Magistrate Judge that the Plaintiff's claims be DISMISSED WITH PREJUDICE pursuant to Fed.R.Civ.P. 41(b) and the Defendant's counterclaim be DISMISSED WITHOUT PREJUDICE are well-taken. The R & R is APPROVED AND ADOPTED. (ECF No. 35).

SO ORDERED on October 19, 2021.

s/ Holly A. Brady

JUDGE HOLLY A. BRADY
UNITED STATES DISTRICT COURT