## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

CLARE U. ANAGONYE,

Plaintiff,

v.

Case No. 18-11170 Honorable Laurie J. Michelson Magistrate Judge R. Steven Whalen

MASS MUTUAL INSURANCE CO..

Defendant.

## ORDER ADOPTING REPORT AND RECOMMENDATION [20], DENYING WITHOUT PREJUDICE DEFENDANT'S MOTION TO DISMISS [13] AND STAYING CASE PENDING ARBITRATION

Before the Court is Executive Magistrate Judge R. Steven Whalen's October 12, 2018, Report and Recommendation. (ECF No. 20.) At the conclusion, Magistrate Judge Whalen notified the parties that they were required to file any objections within fourteen days of service, as provided in Federal Rule of Civil Procedure 72(b)(2) and Eastern District of Michigan Local Rule 72.1(d), and that "[f]ailure to file specific objections constitutes a waiver of any further right of appeal." (R. 23, PageID.537.) It is now November 7, 2018. As such, the time to file objections has expired. No objections have been filed.

The Court finds that the parties' failure to object is a procedural default, waiving review of the Magistrate Judge's findings by this Court. In *United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981), the Sixth Circuit established a rule of procedural default, holding that "a party shall file objections with the district court or else waive right to appeal." And in *Thomas v. Arn*, 474 U.S. 140, 144 (1985), the Supreme Court explained that the Sixth Circuit's waiver-of-appellate-review rule rested on the assumption "that the failure to object may constitute a procedural default waiving review even at the district court level." 474 U.S. at 149; *see also* 

Garrison v. Equifax Info. Servs., LLC, No. 10-13990, 2012 WL 1278044, at \*8 (E.D. Mich. Apr.

16, 2012) ("The Court is not obligated to review the portions of the report to which no objection

was made." (citing *Thomas*, 474 U.S. at 149-52)). The Court further held that this rule violates

neither the Federal Magistrates Act nor the Federal Constitution.

The Court therefore finds that the parties have waived further review of the Magistrate

Judge's Report and accepts his recommended disposition. It follows that Defendant's motion to

dismiss (ECF No. 13) is DENIED WITHOUT PREJUDICE and the case is stayed pending

arbitration.

SO ORDERED.

s/Laurie J. Michelson

LAURIE J. MICHELSON

UNITED STATES DISTRICT JUDGE

Date: November 9, 2018

I hereby certify that a copy of the foregoing document was served upon counsel of record

and/or pro se parties on this date, November 9, 2018, by electronic and/or ordinary mail.

s/William Barkholz

Case Manager

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