



magistrate judge, the magistrate judge's subsequent recommendation is also subject to objection under this rule.").

IT IS ORDERED:

1. The magistrate judge's findings and recommendation (Filing No. [26](#)) are not adopted.
2. This matter is remanded to Judge Zwart for reconsideration of the issue of whether it should be dismissed for lack of prosecution and, if so, whether the dismissal should be with or without prejudice.

DATED this 21<sup>st</sup> day of November, 2017.

BY THE COURT:

*s/ Richard G. Kopf*  
Senior United States District Judge