

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ANTHONY CAGNINA.,

Plaintiff,

No. 16-cv-07253

v.

GARY LANIGANIA, et al.,

ORDER

Defendants.

O’HEARN, District Judge.

THIS MATTER comes before the Court on a *sua sponte* Report and Recommendation issued by Magistrate Judge Matthew J. Skahill on November 17, 2023, (ECF No. 148); and

WHEREAS, Rule 25(a)(1) requires that, if no motion for substitution is made “within 90 days after service of a statement noting the death [of a party], the action by or against the decedent must be dismissed,” Fed. R. Civ. P. 25(a)(1); and

WHEREAS, on February 27, 2023, Plaintiff’s counsel filed a letter advising the Court that Plaintiff passed away in October 2022, (ECF No. 141); and

WHEREAS, on March 3, 2023, Magistrate Judge Skahill issued an Order directing Defendants to provide Plaintiff’s counsel with any available information regarding Plaintiff’s relatives, ordering Plaintiff’s counsel to advise the Court by April 28, 2023 of efforts to identify Plaintiff’s next of kin, and administratively terminating the case, (ECF No. 143); and

WHEREAS, on April 28, 2023, Plaintiff’s counsel filed a letter and affidavit representing that efforts to locate Plaintiff’s next of kin or estate representatives were unsuccessful, (ECF No. 144); and

WHEREAS, on May 5, 2023, Plaintiff's counsel advised the Court that certain of Plaintiff's relatives had been identified and requested an extension of time to contact those relatives, (ECF No. 145), which request the Court subsequently granted, (ECF No. 146); and

WHEREAS, Plaintiff's counsel filed a letter update on July 11, 2023, indicating that counsel had successfully contacted Plaintiff's relatives, (ECF No. 147); and

WHEREAS, on November 17, 2023, Magistrate Judge Skahill issued a Report and Recommendation, (ECF No. 148), noting that more than 90 days had passed since the Court received the statement of Plaintiff's death, more than 90 days had passed since Plaintiff's next of kin had been notified of Plaintiff's passing, and no motion for substitution had by that time been filed; and

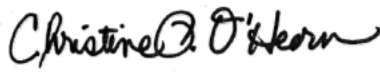
WHEREAS, for that reason, Magistrate Judge Skahill recommended that Plaintiff's Complaint be dismissed pursuant to Fed. R. Civ. P. 25(a)(1) in the event that no party objected to the proposed findings and recommendations within fourteen (14) days from the date of the Report and Recommendation, (ECF No. 148); and

WHEREAS, fourteen (14) days have elapsed from the issuance of the Report and Recommendation and no objections having been filed; now therefore:

IT IS HEREBY on this 4th day of December, 2023,

ORDERED that the Report and Recommendation, (ECF No. 148) is **ADOPTED**; and it is further;

ORDERED that Plaintiff's Complaint is **DISMISSED** pursuant to Fed. R. Civ. P. 25(a)(1).


CHRISTINE P. O'HEARN
United States District Judge