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U.S. DISTRICT COURT E.D.N.Y.
★ MAY 27 2011 ★
BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ANTHONY PERRI,

Plaintiff,

-against-

MICHAEL BLOOMBERG et al.,

Defendants.

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AMON, Chief United States District Judge:

Before the Court is the Report and Recommendation (R & R) of the Honorable Lois Bloom, United States Magistrate Judge, dated April 22, 2011, which recommends that the Court approve the settlement reached by the defendants and Ian Feldman, who is guardian ad litem for the plaintiff Anthony Perri. On May 20, 2011, Perri filed what purport to be objections to the R & R, which the Court will review de novo.

As an initial matter, the Court observes that it has jurisdiction to approve the settlement and close this case, notwithstanding the fact that Perri (by notice dated April 14, 2011) appealed the Court's April 12, 2011 order denying his motion to stay proceedings in this case pending various occurrences.

Even if Perri—who did not appeal Magistrate Judge Bloom's December 28, 2010 order appointing the guardian ad litem—has retained some power to litigate this case, the Court's April 12, 2011 order was not an appealable order. See 15A Charles A. Wright et al., Federal Practice and Procedure § 3914.13 (2d ed. 1992) (“Stays . . . used to regulate the court's own proceedings . . . are no more appealable than other interlocutory procedural orders.”).

For that reason, Perri's appeal of the April 12, 2011 order denying the stay did not divest the Court of jurisdiction to proceed in any respect. See 16A Charles A. Wright et al., Federal

Practice and Procedure § 3949.1 (4th ed. 2009) (“The weight of authority holds that an appeal from a clearly non-appealable order fails to oust district court authority; older cases holding to the contrary have been rejected.”).

On the merits, the Court has reviewed the R & R and the record and concludes that, for the reasons well stated by Magistrate Judge Bloom, the “proposed settlement is fair, reasonable, and adequate.” Neilson v. Colgate-Palmolive Co., 199 F.3d 642, 654 (2d Cir. 1999) (internal quotation marks omitted). Perri’s objections, where they engage the fact and terms of the settlement, are without merit and are further evidence of the need for the appointment of a guardian ad litem.

Pursuant to the attached stipulation of settlement and order of dismissal, the Clerk of Court is directed to close this case.

SO ORDERED.

Dated: Brooklyn, New York

May 27, 2011

/Signed by Chief Judge Carol Bagley Amon/

Carol Bagley Amon
United States District Judge