

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MUEEN N. CHEEMA,

Plaintiff,

- against -

TRANS UNION LLC,

Defendants.
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DECISION and ORDER

1:09-cv-00140-ENV-CLP

VITALIANO, D.J

On December 17, 2009, Magistrate Judge Cheryl L. Pollak issued her Report and Recommendation that plaintiff’s complaint be dismissed with prejudice for failure to prosecute this action pursuant to Federal Rule of Civil Procedure 41(b) and for failing to comply with Judge Pollak’s Order of October 23, 2009, directing plaintiff to find new counsel or contact the court. Neither plaintiff nor defendants have objected to the Report and Recommendation within the time prescribed by 28 U.S.C. § 636(b)(1).

In reviewing the Report and Recommendation, this Court “may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). See also Greene v. Trustees of Columbia Univ., 234 F. Supp. 2d 368, 370-71 (S.D.N.Y. 2002); Pizarro v. Bartlett, 776 F. Supp. 815, 817 (S.D.N.Y. 1991).

The Court finds the Report and Recommendation to be correct, well-reasoned, and free of any clear error. When plaintiff's counsel notified Judge Pollak that he could not get in touch with the plaintiff at the address he had on file with the Court and wished to withdraw, Judge Pollak ordered plaintiff to appear at a hearing and notified him of this hearing through both the U.S. Postal Service and by Federal Express. The notices were returned as undeliverable, and plaintiff failed to appear for the hearing. Judge Pollak then granted plaintiff's counsel's motion to withdraw, gave plaintiff an additional 30 days to find new counsel or contact the court, and advised plaintiff that failure to do so would result in a recommendation to dismiss the case for failure to prosecute. The plaintiff has failed to send anyone at all to appear on his behalf since July 27, 2009, has not kept a current address on file with the court and has made no effort to contact the court, his previous counsel or defendant's counsel to express an intent to go forward with this case. This Court, therefore, adopts the Report and Recommendation in its entirety as the opinion of the Court.

Accordingly, the complaint is dismissed with prejudice for failure to prosecute this action. The Clerk of the Court is directed to close this case.

SO ORDERED.

DATED: Brooklyn, New York
June 15, 2010

s/ENV

ERIC N. VITALIANO
United States District Judge