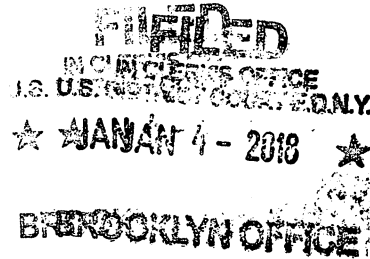


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK



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TODD C. BANK, Individually and on Behalf
of All Others Similarly Situated,

Plaintiff,

NOT FOR PUBLICATION

-against-

ORDER

10-CV-1770 (CBA) (VMS)

HYDRA GROUP LLC,

Defendant.
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AMON, United States District Judge:

The Court has received the Report and Recommendation (“R&R”) of the Honorable Vera M. Scanlon, United States Magistrate Judge, for the instant action filed by pro se Plaintiff Todd C. Bank. (D.E. # 138.) Magistrate Judge Scanlon recommends that this Court deny Plaintiff’s motion for leave to file a Second Amended Complaint pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure. (See D.E. # 123–24, 127.)

No party has objected to the R&R, and the time for doing so has passed.¹ When deciding whether to adopt an R&R, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). To accept those portions of the R&R “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.” Jarvis v. N. Am. Globex Fund, L.P., 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (quoting Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003)).

¹ On December 4, 2017, Plaintiff filed with Magistrate Judge Scanlon a motion for reconsideration of her R&R. (D.E. # 139.) She denied the motion on December 20, 2017. (D.E. # 140.) Under well-settled law in this Circuit, a motion for reconsideration to the magistrate judge is not the proper procedural vehicle for raising an objection to this Court under Rule 72 of the Federal Rules of Civil Procedure. See, e.g., Mestecky v. N.Y.C. Dep’t of Educ., No. 13-CV-4302 (CBA), 2016 WL 7217637, at *2 (E.D.N.Y. Dec. 12, 2016) (collecting cases); cf. Koehler v. Bank of Bermuda Ltd., No. 18-M-302, 2003 WL 466206, at *1 (S.D.N.Y. Feb. 21, 2003). And despite proceeding pro se, a practicing lawyer like Plaintiff “ordinarily receives no . . . solicitude at all” from this Court with respect to construing court filings. Tracy v. Freshwater, 623 F.3d 90, 102 (2d Cir. 2010) (collecting cases).

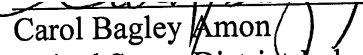
The Court has reviewed Magistrate Judge Scanlon's thorough and careful R&R, the proposed Second Amended Complaint, and the record evidence, such as the June 2010 asset purchase agreement between Defendant Hydra Group LLC and proposed co-Defendant Adknowledge, Inc. The Court finds no clear error and adopts the R&R as the opinion of the Court.

Accordingly, the Court DENIES Plaintiff's motion for leave to file a Second Amended Complaint. (See D.E. # 123-24, 127, 138.) In addition, the Court notes that this action has proceeded for more than seven years. Three district judges and three magistrate judges have presided over this case. In particular, Magistrate Judge Scanlon has expended significant time and resources refereeing the discovery period, which began on February 15, 2012. This case calls for swift resolution of the merits. Accordingly, this Court ORDERS that the parties shall complete all additional discovery by January 31, 2018. The Court respectfully refers any remaining discovery disputes to Magistrate Judge Scanlon. The Court further ORDERS that the deadline for submitting a proposed joint pretrial order is set for February 28, 2018. The Court respectfully refers any proposed joint pretrial order to Magistrate Judge Scanlon for review.

SO ORDERED.

Dated: January 3, 2018
Brooklyn, New York

s/Carol Bagley Amon


Carol Bagley Amon
United States District Judge