

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

MOHAMMAD AKMAN,

Plaintiff,

v.

ORDER

11-CV-3252 (MKB) (RLM)

PEP BOYS MANNY MOE & JACK OF
DELAWARE, INC., d/b/a PEP BOYS AUTO,

Defendants.

-----X

MARGO K. BRODIE, United States District Judge:

Plaintiff Mohammad Akman filed the above-captioned action on July 5, 2011, alleging violations of Title VII of the Civil Rights Act of 1964 and the New York State Human Rights Law. On June 18, 2012, Defendant Pep Boys Manny Moe & Jack of Delaware Inc. filed a motion to dismiss the Complaint for failure to prosecute. (Docket No. 19.) Specifically, Defendants moved to dismiss the Complaint due to Plaintiff's discovery deficiencies and multiple violations of Court orders. *Id.* On June 19, 2012, Magistrate Judge Mann issued an Order to Show Cause, directing Plaintiff to show cause, in person, on June 22, 2012, why the complaint should not be dismissed for lack of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and for repeated violations of discovery orders pursuant to Rule 37(b)(2)(A)(v) of the Federal Rules of Civil Procedure, and why additional monetary sanctions should not be imposed pursuant to Rule 37(b)(2)(C) of the Federal Rules of Civil Procedure and the Court's inherent authority. Plaintiff's counsel appeared on June 22, 2012, and Magistrate Judge Mann noted that Plaintiff's counsel "makes excuses for again violating a court order (the 6/14/12 Minute Entry) but has no explanation for having failed to apply to the Court for

additional time.” (Docket No. 21, Jun. 22, 2012 Minute Entry.) Defendant renewed its motion to dismiss the case, and Magistrate Judge Mann took the matter under advisement. On August 10, 2012, Magistrate Judge Mann filed a Report & Recommendation (“R&R”), recommending that Defendant’s motion to dismiss be denied. No objections were filed.

This Court has reviewed the unopposed R&R, and, finding no clear error, the Court adopts Magistrate Judge Mann’s R&R pursuant to 28 U.S.C. § 636(b)(1). Accordingly, Defendant’s motion to dismiss is denied.

SO ORDERED:

s/MKB
MARGO K. BRODIE
United States District Judge

Dated: August 29, 2012
Brooklyn, New York