

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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DIANA DEUFRAINS,

Plaintiff,

-against-

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

12-CV-2576 (KAM)(VMS)

POVILAS KARCAUSKAS, VIKTORIJA  
KARCAUSKAS, YOUR SERVER SOLUTIONS,  
LLC,

Defendants.

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**MATSUMOTO, United States District Judge:**

On May 22, 2012, Diana Deufrains ("plaintiff") commenced this *pro se* action, alleging that Povilas Karcauskas, Viktorija Karcauskas, and Your Server Solutions LLC ("defendants"), who are also all appearing *pro se*, breached a partnership agreement. (ECF No. 1, Complaint, 5/22/2012.) On October 1, 2012, defendants filed a motion to dismiss the case for lack of personal jurisdiction and for improper venue, and a motion to stay in favor of arbitration. (ECF No. 14, Motion to Dismiss the Case or Stay the Case for Arbitration, 10/1/2012.) The motion was fully briefed on February 28, 2013. (ECF Nos. 14-16, 18-19, 22-24.) On March 26, 2013, plaintiff filed a motion seeking an expedited hearing. (ECF No. 25, Motion for Hearing, 3/26/2013.) On April 1, this court referred

defendants' motion to dismiss and to stay the case to Magistrate Judge Vera M. Scanlon for a Report and Recommendation, as well as the motion from plaintiff seeking an expedited hearing.

(Order Referring Case dated 4/1/2013.) Magistrate Judge Scanlon held a telephonic hearing on June 24, 2013. (Minute Entry dated 7/9/2013.) In response to a request from Magistrate Judge Scanlon, the parties submitted additional information concerning the proper venue for the case on August 6, 2013. (ECF Nos. 30-31, 8/6/2013.)

Judge Scanlon issued her Report and Recommendation on August 19, 2013, in which she recommended that this court 1) deny defendants' motion to dismiss for lack of subject matter jurisdiction; 2) find that the Eastern District of New York lacks personal jurisdiction over defendants and is not a proper venue for this action; 3) deny defendants' motion to dismiss for lack of personal jurisdiction and improper venue; 4) deny defendants' motion to compel arbitration; and 5) grant defendants' motion to transfer this case to the United States District Court for the Central District of California. (ECF No. 32, Report and Recommendation ("R&R"), 8/19/2013.)

The R&R notified the parties of the right to file written objections within fourteen days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

(R&R at 32.) Plaintiff filed two motions seeking an extension of time to file responses to Magistrate Judge Scanlon's R&R. (ECF Nos. 33-34.) The court denied both motions because plaintiff failed to articulate any sufficient justification to merit an extension. (Orders dated 8/29/2013, 9/3/2013.) On September 3, 2013, plaintiff also filed a motion to appoint counsel. (ECF No. 35, Motion to Appoint Counsel, 9/3/2013.) The statutory period for filing objections has now expired, and no objections to Magistrate Judge Scanlon's R&R have been filed.

In reviewing a Report and Recommendation, the district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1)(C). Where no objection to the Report and Recommendation has been filed, the district court "need only satisfy itself that that there is no clear error on the face of the record." *Urena v. New York*, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985) (citations omitted)).

Upon a review of the Report and Recommendation, and considering that the parties have failed to object to any of Magistrate Judge Scanlon's thorough and well-reasoned recommendations, the court finds no clear error in Magistrate Judge Scanlon's Report and Recommendation and hereby affirms and

adopts the Report and Recommendation as the opinion of the court.

Accordingly, the court 1) denies defendants' motion to dismiss for lack of subject matter jurisdiction; 2) finds that the Eastern District of New York lacks personal jurisdiction over defendants and is not a proper venue for this action; 3) denies defendants' motion to dismiss for lack of personal jurisdiction and improper venue; 4) denies defendants' motion to compel arbitration; and 5) grants defendants' motion to transfer this case to the United States District Court for the Central District of California. Plaintiff's motion to have counsel appointed is left to the discretion of the transferee court.

The clerk of court is respectfully requested to mail copies of this order via certified mail to all parties and to note service of the same on the docket. The clerk of court is further respectfully requested to transfer this case to the United States District Court for the Central District of California and to close this case.

**SO ORDERED.**

Dated: September 9, 2013  
Brooklyn, New York

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Kiyoo A. Matsumoto  
United States District Judge