

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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U.S. DISTRICT COURT E.D.N.Y.
★ JUL 8 - 2014 ★

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MYNOR FEDERICO NUNEZ BALTAZAR, :

BROOKLYN OFFICE

Plaintiff, :

MEMORANDUM & ORDER

-against- :

13-cv-5139 (ENV) (LB)

PETLAND DISCOUNTS INC., KERI ANN :
NELSON, BOB SMITH, ROSIE CONSIGLIO, :
PATRICIA ROSE, DERON PARCHMENT, :
and FERNANDO IGLESISAS., :

Defendants. x

VITALIANO, D.J.,

On May 22, 2014, Magistrate Judge Lois Bloom issued a Report & Recommendation (“R&R”) in which she recommends that *pro se* plaintiff Mynor Baltazar’s motion to amend his complaint in the instant employment discrimination action should be denied because (1) Baltazar “has not shown good cause for why his request to amend the complaint was not made until after the deadline set by the [the Court],” and (2) his “proposed claim for tortious spoliation would not survive a motion to dismiss and the proposed amendment is therefore futile”.

In reviewing an R&R of a magistrate judge, a district judge “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). A district judge is required to “make a *de novo* determination upon the record, or after additional evidence, of any portion of the magistrate judge’s disposition to which specific written objection has been made” by any party. Fed. R. Civ. P. 72(b). But, where no timely objection has been

made, the “district court need only satisfy itself that there is no clear error on the face of the record” to accept a magistrate judge’s report and recommendation.

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)).

The R&R gave proper notice that any objection must have been filed within 14 days—June 9, 2014. Neither plaintiff nor defendants have objected to Judge Bloom’s R&R, much less within the time prescribed by 28 U.S.C. § 636(b)(1). In accord with the applicable standard of review, the Court finds Judge Bloom’s R&R to be correct, well-reasoned and free of any clear error. The Court, therefore, adopts it in its entirety as the opinion of the Court

Conclusion

Accordingly, plaintiff’s motion to amend his complaint to add a claim for tortious spoliation is denied.

The case has been and continues to be referred to Judge Bloom for any needed pre-trial management.

SO ORDERED.

Dated: Brooklyn, New York
July 4, 2014


s/Eric N. Vitaliano

ERIC N. VITALIANO
United States District Judge