

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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EDUARDO MALDONADO LOPEZ, on behalf
of himself and all others similarly situated

Plaintiff,

-against-

CAJMANT, LLC, WHEATFIELD DISTRIBUTORS
LLC, JOHN SCHMIDT, ROSE SCHMIDT,
MARCELO CAJAMARCA and ROBERT W. VOGLER

Defendants.

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TOWNES, United States District Judge:

In February 2015, plaintiff Eduardo Maldonado Lopez commenced this action pursuant to the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 *et seq.* (“FLSA”), New York common law, and New York Labor Law, alleging that the defendants violated those laws by failing to provide overtime pay and making illegal deductions from employees’ paychecks. In August 2015, non-attorney Robert W. Vogler, filed a “Letter Motion to Dismiss due to lack of continuity, substance and applicable law” on behalf of himself and Cajmant, LLC. (Rec. Doc. 24). After Plaintiff duly opposed that motion (Rec. Doc. 34), Magistrate Judge Raymon E. Reyes issued a report and recommendation (“R&R”). The R&R recommended denying the motion as to Cajmant, LLC on the grounds that it cannot appear in court through a non-attorney. The R&R also recommended denying the motion as to both movants on the grounds that the motion controverted Plaintiff’s allegations without adducing evidentiary material and thus fails to merit dismissal as either a motion to dismiss or motion for summary judgment.

The R&R specified that objections were due by April 22, 2016, and advised defendants

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

15-CV-593 (SLT)(RER)

that “[f]ailure to file timely objections may waive the right to appeal the District Courts [sic] order.” (Apr. 5, 2016 ECF entry) (citing cases). Plaintiff’s counsel promptly provided notice to each address appearing on the instant motion. (Rec. Doc. 42). The Court has not received any objections to date.

A district court is not required to review the factual or legal conclusions of a magistrate judge as to those portions of a report and recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). Nonetheless, when no objections are filed, many courts seek to satisfy themselves “that there is no clear error on the face of the record.” Fed. R. Civ. P. 72(b) advisory committee note (1983 Addition); *see also Edwards v. Town of Huntington*, No. 05 Civ. 339 (NGG) (AKT), 2007 WL 2027913, at *2 (E.D.N.Y. July 11, 2007). Accordingly, this Court has reviewed the R&R for clear error on the face of the record. The Court finds no clear error, and therefore adopts the R&R in its entirety as the opinion of the Court pursuant to 28 U.S.C. § 636(b)(1).

CONCLUSION

For the reasons stated above, Magistrate Judge Reyes’ Report and Recommendation dated April 5, 2016, is adopted in its entirety and the instant motion (Rec. Doc. 24) is **DENIED**.

SO ORDERED.

s/SLT

SANDRA L. TOWNES
United States District Judge

Dated: May 26, 2016
Brooklyn, New York