

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

YA YI GUO,

Plaintiffs,

MEMORANDUM & ORDER
16-CV-766 (MKB) (CLP)

v.

GOLDEN GLOBE TRAVEL AGENCY INC., AI
XIA ZHAN, and JOHN DOE and JANE DOE
#1-10,

Defendants.

MARGO K. BRODIE, United States District Judge:

On February 14, 2016, Plaintiff Ya Yi Guo commenced the above-captioned action against Defendants Golden Globe Travel Agency Inc., Ai Xia Zhan, and John and Jane Doe # 1-10, seeking unpaid minimum and overtime wages, liquidated damages, pre-judgment and post-judgment interest, and attorney's fees and costs under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* ("FLSA"), New York Labor Law § 650 *et seq.* ("NYLL"), and the New York Code of Rules and Regulations, 12 N.Y.C.R.R. § 146 ("NYCRR"). (Compl., Docket Entry No. 1.) On July 15, 2016, before Defendants filed an answer or otherwise responded to the Complaint, Plaintiff notified the Court that the parties had reached a resolution on the matter and informed the Court that, within thirty (30) days, they would file a settlement agreement and fairness letter for the Court's approval pursuant to *Cheeks v. Freeport Pancake House Inc.*, 796 F.3d 199 (2d Cir. 2015). No settlement agreement or fairness papers were filed. (Status Report, Docket Entry No. 10.) Subsequently, on September 8, 2016, Plaintiff filed a notice of voluntary dismissal without prejudice pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure. (Pl. Notice of Voluntary Dismissal, Docket Entry No. 12.)

By report and recommendation dated September 12, 2016 (the “R&R”), Magistrate Judge Cheryl Pollak recommended that the Court grant Plaintiff’s request for voluntary dismissal. (R&R 3–4, Docket Entry No. 14.) No party has objected to the R&R.

A district court reviewing a magistrate judge’s recommended ruling “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)(C). “[F]ailure to object timely to a magistrate judge’s report may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object.” *Eustache v. Home Depot U.S.A., Inc.*, 621 F. App’x 86, 87 (2d Cir. 2015) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997)); *see also Almonte v. Suffolk Cty.*, 531 F. App’x 107, 109 (2d Cir. 2013) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.” (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) (“[A] party waives appellate review of a decision in a magistrate judge’s Report and Recommendation if the party fails to file timely objections designating the particular issue.” (first citing *Cephas*, 328 F.3d at 107; and then citing *Mario v. P & C Food Markets, Inc.*, 313 F.3d 758, 766 (2d Cir. 2002))).

The Court has reviewed the unopposed R&R and, finding no clear error, the Court adopts Judge Pollak's R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1). This action is dismissed without prejudice. The Clerk of Court is directed to close this case.

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge

Dated: January 20, 2017
Brooklyn, New York