

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

ARYEH MINZER, Plaintiff,  
-against-  
G & U BISTRO, LLC, AND BP 13 LLC, Defendants.

GOLD, STEVEN M., U.S. Magistrate Judge:

**FILED**  
IN CLERK'S OFFICE  
US DISTRICT COURT E.D.N.Y.

★ NOV 13 2017 ★

BROOKLYN OFFICE

REPORT &  
RECOMMENDATION  
17-CV-3935 (RJD) (SMG)

11/13/17  
By agreement of the parties, Plaintiff's motion for leave to withdraw as counsel is accepted. Counsel will file and case dismissed. The order is as follows:  
S/ RJD

Plaintiffs commenced this action under the Americans with Disabilities Act on June 30, 2017. On August 22, 2017, plaintiff's attorney, Erik M. Bashian, Esq., moved for leave to withdraw as counsel. Docket Entry 9. Counsel has submitted an affidavit in support of the motion in which he asserts that plaintiff has refused to communicate with him or respond to his requests for information about the case. Bashian Decl. ¶ 4, Docket Entry 9-2.

By Order dated September 1, 2017, I scheduled a telephone conference to address counsel's motion. The Court's Order directed that plaintiff Minzer participate in the conference call, and that counsel serve the Order on plaintiff and file proof of service with the Court. Docket Entry 12. Counsel promptly filed an affidavit of service. Docket Entry 10.

The conference proceeded as scheduled on September 15, 2017. Plaintiff failed to appear. I issued a second Order that same day directing plaintiff to submit any opposition he might have to his attorney's motion for leave to withdraw as his counsel, or a letter indicating that he seeks to proceed pro se or through new counsel, by October 12, 2017. Docket Entry 12. This Order was served on plaintiff as well. Docket Entry 13.

To date, plaintiff has failed to oppose his counsel's motion or otherwise communicate

with the Court. Accordingly, I grant Mr. Bashian's motion to be relieved, and I respectfully recommend that this case be dismissed for failure to prosecute.

Any objections to the recommendation contained in this Report must be filed with the Clerk of the Court within fourteen days of the date of this Report, and in any event, no later than **October 30, 2017**. Failure to object to this Report may waive the right to appeal the District Court's Order. *See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72; Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989).

The Clerk of the Court is respectfully requested to mail a copy of this Report and Recommendation to plaintiff at the address provided in the affidavits of service submitted by plaintiff's counsel.

/s/

STEVEN M. GOLD.  
UNITED STATES MAGISTRATE JUDGE

Brooklyn, New York  
October 16, 2017

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