

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ARYEH MINZER,

Plaintiff,

-against-

HIBACHI GLATT INC. dba KASAI,  
and CHRIS & GAGRIEL LLC,

Defendants.  
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**MEMORANDUM AND ORDER**

1:17-cv-04178(FB)(RLM)

*Appearances:*

*For the Plaintiff*

ERIK MATHEW BASHIAN

Bashian & Papantoniou, P.C.

500 Old Country Road, Suite 302

Garden City, NY 11530

*For the Defendant*

**BLOCK, Senior District Judge:**

On November 14, 2017, Magistrate Judge Rosanne L. Mann issued a *sua sponte* Report and Recommendation (“R&R”) recommending that plaintiff’s attorney Erik Bashian’s Motion to Withdraw be granted, and that the Court dismiss this action for lack of prosecution because plaintiff Aryeh Minzer has failed to respond to court orders or answer his attorney’s phone calls. The R&R instructed that “[a]ny objections to the recommendations made in this Report must be made within fourteen days after filing of this Report and Recommendation, and, in any event, on or before December 1, 2017.” No objections have been filed to date, and Minzer’s opportunity to object has passed.

Where there are no objections, the Court may adopt the R&R without de novo review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court must conduct de novo review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000). No such error appears here. Accordingly, the Court adopts the R&R without de novo review. Mr. Bashian’s motion to withdraw is granted, and this action is dismissed for failure to prosecute.

**SO ORDERED.**

/S/ Frederic Block  
FREDERIC BLOCK  
Senior United States District Judge

Brooklyn, New York  
January 9, 2018