

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

For Online Publication Only

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SOUTH BAY SAILING CENTER, INC.,

Plaintiff,
-against-

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

15-CV-6183 (JMA)(SIL)

THE STANDARD FIRE INSURANCE
COMPANY and DAVID R. WOZNICK,

**FILED
CLERK**

Defendants.

3/7/2017 9:41 am

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AZRACK, United States District Judge:

**U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE**

On May 31, 2016, the Clerk of Court filed an entry of default regarding defendant David Woznick. On June 9, 2016, plaintiff filed a motion for default judgment against Woznick. On September 14, 2016, the Honorable Steven I. Locke, United States Magistrate Judge, held a Traverse Hearing concerning Woznick’s challenge to service of the complaint. On October 25, 2016, plaintiff requested an extension of time to serve Woznick. On December 22, 2016, the Court formally referred the motion for default judgment to Judge Locke for a report and recommendation. According to the Court’s individual rules, plaintiff’s motion for an extension of time serve Woznick was automatically referred to Judge Locke.

In a Report and Recommendation dated January 17, 2017 (“the R&R”), Judge Locke recommended that: (1) the Clerk’s Entry of Default against Woznick be vacated due to improper service; (2) plaintiff’s motion for default judgment be denied due to improper service; and (3) plaintiff’s motion for extension of time to serve Woznick be granted nunc pro tunc.

No party has objected to the R & R, and the time for doing so has passed. When deciding whether to adopt a report and recommendation, a district court “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). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Jarvis v. N. Am. Globex Fund, L.P., 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks and citation omitted). The Court has reviewed the record and, finding no clear error, adopts the R & R as the opinion of the Court. Accordingly, the Court: (1) vacates the Clerk’s Entry of Default against Woznick due to improper service; (2) denies plaintiff’s motion for default judgment due to improper service; and (3) grants plaintiff’s motion for extension of time to serve Woznick be granted nunc pro tunc.

SO ORDERED.

Date: March 7, 2017
Central Islip, New York

/s/ (JMA)
Joan M. Azrack
United States District Judge