

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**PETER LaROCCO,**  
**Plaintiff,**

**v.**

**1:12-CV-978  
(MAD/CFH)**

**JIM HINSTON, Supervisor; ALLISON, Kitchen  
Manager; MAXWELL,**

**Defendants.**

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**APPEARANCES:**

Peter LaRocco  
410 Canoe Hill Road  
Saugerties, New York 12477  
*PRO SE*

**OF COUNSEL:**

**MAE A. D'AGOSTINO, U. S. DISTRICT JUDGE**

**ORDER**

The above matter comes to me following a Report-Recommendation by Magistrate Judge Christian F. Hummel, duly filed on the 22<sup>nd</sup> day of January 2013. Following fourteen (14) days from the service thereof, the Clerk has sent me the file. Plaintiff has not filed any objections to the Report-Recommendation.<sup>1</sup>

A litigant's failure to file objections to a magistrate judge's report and recommendation, even when that litigant is proceeding *pro se*, waives any challenge to the report on appeal. *See Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003) (holding that, "[a]s a rule, a party's failure to object to any purported error or omission in a magistrate judge's report waives further judicial

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<sup>1</sup> The Clerk is directed to append Judge Hummel's Report-Recommendation to this decision, and familiarity is presumed. (Dkt. No. 10).

review of the point" (citation omitted)). A *pro se* litigant must be given notice of this rule; notice is sufficient if it informs the litigant that the failure to file a timely objection will result in the waiver of further judicial review and cites the pertinent statutory and civil rules authority. *See Frank v. Johnson*, 968 F.2d 298, 299 (2d Cir. 1992); *Small v. Sec'y of Health and Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (holding that a *pro se* party's failure to object to a report and recommendation does not waive his right to appellate review unless the report explicitly states that failure to object will preclude appellate review and specifically cites 28 U.S.C. § 636(b)(1) and Rules 72, 6(a), and former 6(e) of the Federal Rules of Civil Procedure).

After careful review of all of the papers herein, including the Magistrate Judge's Report-Recommendation, and no objections submitted thereto, it is

**ORDERED** that:

1. The Report-Recommendation is hereby adopted in its entirety.
2. The Clerk is directed to close the case.
3. The Clerk of the Court shall serve a copy of this Order upon all parties and the

Magistrate Judge assigned to this case.

**IT IS SO ORDERED.**

Dated: March 7, 2013  
Albany, New York



**Mae A. D'Agostino**  
U.S. District Judge