

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

**DAVID KINZIE, individually and as
Beneficiary Under the Pilar Kinzie
Employee Stock Ownership Plan,
The Bank of New York Company,
Inc. and on behalf of Pilar Kinzie,
deceased**

Plaintiff,

**1:14-cv-1191
(GLS/CFH)**

v.

**U.S. DEPARTMENT OF LABOR
EMPLOYEE BENEFITS SECURITY
ADMINISTRATION**

Defendant.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

Office of William A. Brenner
P.O. Box 369
157 Main Street
Grahamsville, New York 12740

WILLIAM A. BRENNER, ESQ.

**Gary L. Sharpe
Senior District Judge**

ORDER

The above-captioned matter comes to this court following a Report-
Recommendation and Order by Magistrate Judge Christian F. Hummel,

duly filed on June 6, 2016. (Dkt. No. 31.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Report-Recommendation for clear error, it is hereby

ORDERED that the Report-Recommendation and Order (Dkt. No. 31) is **ADOPTED** in its entirety; and it is further

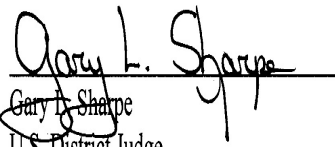
ORDERED that the action be **DISMISSED** without prejudice pursuant to Fed. R. Civ. P. 4(m) for failure to effectuate timely service upon the defendant U.S. Department of Labor Employee Benefits Security Administration; and it is further

ORDERED that the clerk is directed to close this case; and it is further

ORDERED that the clerk of the court serve a copy of this order upon the parties in accordance with this court's Local Rules.

IT IS SO ORDERED.

July 5, 2016
Albany, New York


Gary L. Sharpe
U.S. District Judge