

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

KYRA MOSS,

Plaintiff,

v.

1:17-CV-0876 (BKS/DJS)

ERIKA MACCHIONE, *La Luce Boutique,*

Defendant.

Appearances:

Kyra Moss
Albany, NY
Plaintiff, *pro se*

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

On August 9, 2017, Plaintiff Kyra Moss commenced this action *pro se*, and filed a motion for leave to proceed in forma pauperis. Dkt. No. 1. This matter was referred to United States Magistrate Judge Daniel J. Stewart who, on September 11, 2017, granted Plaintiff's motion to proceed in forma pauperis and issued a Report-Recommendation recommending that Plaintiff's Complaint be dismissed pursuant to 28 U.S.C. § 1915 for failure to state a claim on which relief may be granted. Dkt. No. 4. In light of her *pro se* status, Magistrate Judge Stewart recommended that Plaintiff be given an opportunity to amend her Complaint. *Id.* at 5.

Magistrate Judge Stewart advised the Plaintiff that under 28 U.S.C. § 636(b)(1), she had fourteen days within which to file written objections to the report, and that the failure to object to the

report within fourteen days would preclude appellate review. Dkt. No. 4, pp. 6-7. No objections to the Report-Recommendation have been filed.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228-29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts it in its entirety.

For these reasons, it is

ORDERED that the Report-Recommendation (Dkt. No. 4) is **ADOPTED** in its entirety; and it is further

ORDERED that Plaintiff's Complaint is dismissed, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim on which relief may be granted; and it is further

ORDERED that Plaintiff may file an Amended Complaint within thirty (30) days from the date of this Order; and it is further

ORDERED that if Plaintiff fails to file an Amended Complaint within thirty (30) days from the date of this Order, the Clerk is directed to enter Judgment without further Order from the Court; and it is further

ORDERED that the Clerk serve a copy of this Order upon Plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: November 8, 2017


Brenda K. Sannes
U.S. District Judge