

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

KEVIN JOSEPH GABRIEL BRENNAN,

Plaintiff,

3:22-CV-0127
(GTS/ML)

v.

NCACOMP, INC., Owner Kevin Gregory; JOLEEN
M. BOLGER (Snowdon), Manager of NCAComp., Inc.;
DR. ANNE M. CAULKINS, Site Supervisor of Lourdes
Pain and Wellness Ctr.; and RENE BARNES (Piccirilli),
Manager of N.Y.S. Worker's Comp. Bd.; and
ASCENSION LOURDES,

Defendants.

APPEARANCES:

OF COUNSEL:

KEVIN JOSEPH GABRIEL BRENNAN

Plaintiff, *Pro Se*

Kevin Brennan

319 Exchange Avenue

Townhouse #20

Endicott, New York 13760

GLENN T. SUDDABY, United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* civil rights action filed under the Americans with Disabilities Act by Kevin Joseph Gabriel Brenna (“Plaintiff”) against the above-captioned individuals and entities (“Defendants”), is United States Magistrate Judge Miroslav Lovric’s Report-Recommendation recommending that Plaintiff’s Second Amended Complaint be *sua sponte* dismissed without leave to replead because it fails to state a claim upon which relief may be granted and it seeks monetary relief against a defendant who is immune from such relief pursuant to 28 U.S.C. § 1915(e)(2)(B). (Dkt. No. 17.) Plaintiff has not filed an objection to the

Report-Recommendation and the deadline in which to do so has expired. (*See generally* Docket Sheet.)

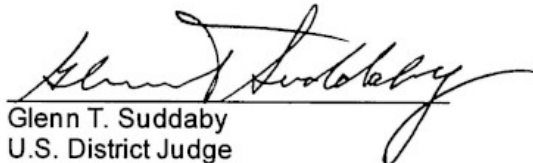
After carefully reviewing the relevant filings in this action, the Court finds no error in the Report-Recommendation, clear or otherwise:¹ Magistrate Judge Lovric employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Court accepts and adopts the Report-Recommendation for the reasons stated therein, and Plaintiff's Second Amended Complaint is dismissed without leave to replead.

ACCORDINGLY, it is

ORDERED that Magistrate Judge Lovric's Report-Recommendation (Dkt. No. 17) is **ACCEPTED** and **ADOPTED**; and it is further

ORDERED that Plaintiff's Second Amended Complaint (Dkt. No. 16) is *sua sponte* **DISMISSED** because it fails to state a claim upon which relief may be granted and seeks monetary relief against a defendant who is immune from such relief pursuant to 28 U.S.C. § 1915(e)(2)(B).

Dated: January 17, 2023
Syracuse, New York


Glenn T. Suddaby
U.S. District Judge

¹ When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a clear error review, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Id.*; see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) (“I am permitted to adopt those sections of [a magistrate judge’s] report to which no specific objection is made, so long as those sections are not facially erroneous.”) (internal quotation marks omitted).