

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CRAIG SILMAN,

Plaintiff,

-against-

6:14-CV-0432 (LEK/TWD)

UTICA COLLEGE, *et al.*,

Defendants.

ORDER

This matter comes before the Court following a Report-Recommendation filed on April 30, 2014, by the Honorable Thérèse Wiley Dancks, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3. Dkt. No. 7 (“Report-Recommendation”).

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” FED. R. CIV. P. 72(b); L.R. 72.1(c). If no objections are made, or if an objection is general, conclusory, perfunctory, or a mere reiteration of an argument made to the magistrate judge, a district court need review that aspect of a report-recommendation only for clear error. Chylinski v. Bank of Am., N.A., 434 F. App’x 47, 48 (2d Cir. 2011); Barnes v. Prack, No. 11-CV-0857, 2013 WL 1121353, at *1 (N.D.N.Y. Mar. 18, 2013); Farid v. Bouey, 554 F. Supp. 2d 301, 306-07 & n.2 (N.D.N.Y. 2008); see also Machicote v. Ercole, No. 06 Civ. 13320, 2011 WL 3809920, at *2 (S.D.N.Y. Aug. 25, 2011) (“[E]ven a *pro se* party’s objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate’s proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior argument.”).

Plaintiff does not object to the Report-Recommendation. Dkt. No. 8. The Court therefore reviews the Report-Recommendation for clear error and finds none.

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 7) is **APPROVED** and **ADOPTED in its entirety**; and it is further

ORDERED, that Plaintiff's claim for retaliation in violation of 29 U.S.C. § 794(a)(2) against Defendants Tyson Krieger, John Johnson, Alane Varga, Steve Pattarini, Judith Kirkpatrick, Todd Hutton, and Lawrence Gilroy is **DISMISSED without leave to amend**; and it is further

ORDERED, that Plaintiff's claims for intentional and negligent infliction of emotional distress against all Defendants are **DISMISSED with leave to amend**. If Plaintiff wishes to proceed with his claims for intentional and negligent infliction of emotional distress, he may do so by filing, **within thirty (30) days** of the filing date of this Order, an amended complaint that remedies the deficiencies identified in the Report-Recommendation; and it is further

ORDERED, that the Clerk of the Court issue a summons and forward it, along with copies of the Complaint (Dkt. No. 1), the Report-Recommendation (Dkt. No. 7), this Order, and a packet containing General Order 25, to the United States Marshal for service upon Defendant Utica College; and it is further

ORDERED, that Defendant Utica College file a response to Plaintiff's Claims I-III as provided for in the Federal Rules of Civil Procedure; and it is further

ORDERED, that any paper sent by a party to the Court or the Clerk shall be accompanied by a certificate setting forth the date a true and correct copy of it was mailed to all opposing parties or their counsel. **Any letter or other document received by the Clerk or the Court which does**

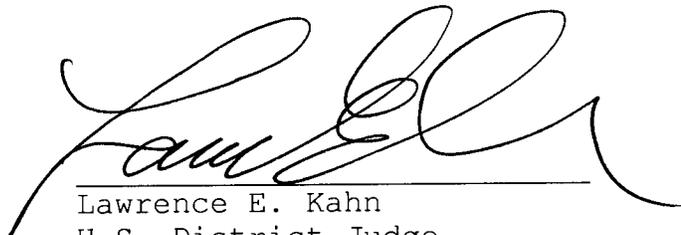
not include a certificate of service which clearly states that an identical copy was served upon all opposing parties or their attorneys is to be returned, without processing, by the Clerk.

Plaintiff shall comply with any requests by the Clerk's Office for any documents that are necessary to maintain this action. All motions shall comply with the Local Rules of Practice of the Northern District; and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order on Plaintiff.

IT IS SO ORDERED.

DATED: May 14, 2014
Albany, New York



Lawrence E. Kahn
U.S. District Judge