

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

AKANNI AMBERSLIE,

Plaintiff,

**Civil Action No.
9:17-CV-0564 (TJM/DEP)**

v.

**PRISONER TRANSPORT SERVICE
OF AMERICA, LLC, et al.,**

Defendants.

**THOMAS J. McAVOY,
Senior United States District Judge**

DECISION & ORDER

I. INTRODUCTION

This *pro se* action was referred to the Hon. David E. Peebles, Chief United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Magistrate Judge Peebles recommends that defendant's motion to dismiss [Dkt. No. 23] be granted, and that plaintiff's remaining claims against defendant Prisoner Transport Service of America, LLC, be dismissed, with leave to replead. Rep. & Rec. p. 20. No objections to Magistrate Judge Peebles' Report and Recommendation have been filed, and the time to do so has expired. Plaintiff did, however, file a letter indicating that he intended to replead [Dkt. No. 34], and, on February 1, 2018, filed a document that appears to be his amended pleading. [Dkt. No. 35]. In response to the February 1, 2018 filing, which was docketed as a "submission in response to Report and Recommendation,"

defendant Prisoner Transport Service of America, LLC filed a letter motion [Dkt. No. 37] asking: (1) that the docket designation for the February 1, 2018 filing [Dkt. No. 35] be changed to plaintiff's amended complaint, and (2) that defendant be given until March 6, 2018 to respond to or otherwise move to dismiss the amended complaint.

II. DISCUSSION

After examining the record, this Court has determined that the Report and Recommendation is not subject to attack for plain error or manifest injustice.

A review of the February 1, 2018 filing [Dkt. No. 35] indicates that the document is intended to be plaintiff's amended complaint.

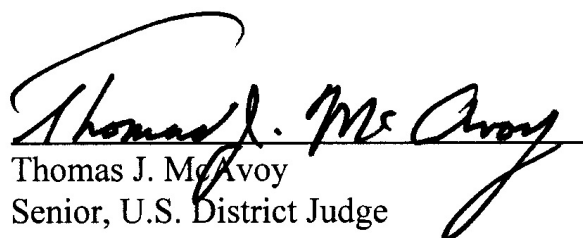
III. CONCLUSION

Accordingly, the Court **ACCEPTS and ADOPTS** the Report and Recommendation [Dkt. No. 33] for the reasons stated therein. Defendant's motion to dismiss [Dkt. No. 23] is **GRANTED**, and plaintiff's remaining claims in the Complaint [Dkt. No. 1] against defendant Prisoner Transport Service of America, LLC, are **DISMISSED** with leave to replead.

Further, defendant Prisoner Transport Service of America, LLC's letter motion [Dkt. No. 37] is **GRANTED**. The Clerk of the Court is respectfully directed to change the docket designation for the February 1, 2018 filing [Dkt. No. 35] to plaintiff's Amended Complaint. Defendant Prisoner Transport Service of America, LLC is given until March 6, 2018 to respond to or otherwise move to dismiss the Amended Complaint.

IT IS SO ORDERED.

Dated: February 22, 2018


Thomas J. McAvoy
Senior, U.S. District Judge