

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

**USDC-SDNY
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ELECTRONICALLY FILED
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DATE FILED: 4/3/2018**

MONTEFIORE MEDICAL CENTER,

Plaintiff,

v.

LOCAL 272 WELFARE FUND, and MARK
GOODMAN, in his capacity as Fund
Manager of the LOCAL 272 WELFARE
FUND,

Defendants.

No. 09-CV-3096 (RA)

ORDER ADOPTING REPORT AND
RECOMMENDATION

RONNIE ABRAMS, United States District Judge:

Montefiore Medical Center brings this action against the Local 272 Welfare Fund and its manager, Mark Goodman, for payment based on medical treatments that Montefiore provided to Fund beneficiaries. This case, and its related cases No. 14-CV-10229 and No. 17-CV-10213, have a long and complex procedural history, including a bench trial and a decision by Judge Baer that was vacated and remanded by the Second Circuit. In 2017, Montefiore moved for judgment as to some of its outstanding claims in this case. Now before the Court is Magistrate Judge Netburn's Report and Recommendation (the "Report") (Dkt. 106), dated February 20, 2018, which recommends granting in part and denying in part Montefiore's motion. The parties have not filed any objections to the Report, and they have informed Judge Netburn that they do not intend to do so.

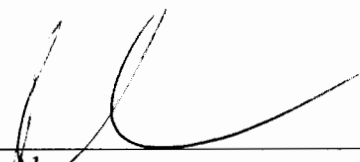
Having reviewed the Report for clear error, the Court hereby adopts it in its entirety. *See Galeana v. Lemongrass on Broadway Corp.*, 120 F. Supp. 3d 306, 310 (S.D.N.Y. 2014) ("When the parties make no objections to the Report, the Court may adopt the Report if there is no clear

error on the face of the record.” (citation omitted)). Accordingly, Montefiore is awarded (1) \$42,698.03 for five of the Horizon claims, with three other claims remanded to the Fund, as originally ordered by Judge Baer, *see* Report at 7–8, 25, *reinstating in part* Op. & Order (Dkt. 45); (2) \$641,326 for the remaining MagnaCare claims, *see* Report at 25; and (3) 9% prejudgment interest for the Horizon claims and the fourteen state-law MagnaCare claims, *see* Report at 25–26. These judgments shall be set off by the amount of any payments for the Horizon and MagnaCare claims that the Fund has made since the trial. As the parties are aware, their decision to waive their right to file written objections also waives appellate review of this decision. *See United States v. James*, 712 F.3d 79, 105 (2d Cir. 2013).

The Clerk of Court is respectfully directed to terminate the motion pending at Dkt. 95. The case shall remain open so that the parties and the Court can address the remaining claims in this case, which relate to the now-completed appeal in case No. 14-CV-10229.

SO ORDERED.

Dated: April 3, 2018
New York, New York



Ronnie Abrams
United States District Judge