

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 10/9/2014

----- X
LENNY ENCARNACION, :
 :
 :
 Plaintiff, :
 :
 :
 -against- :
 :
 ISABELLA GERIATRIC CENTER, INC., :
 ET AL., :
 :
 Defendants. :
----- X

1:11-cv-3757-GHW

MEMORANDUM OPINION
AND ORDER

GREGORY H. WOODS, District Judge:

On September 11, 2014, Magistrate Judge Francis denied defendants’ motion to strike plaintiff’s jury demand. On September 24, 2014, defendants filed a motion to set aside that order under Federal Rule of Civil Procedure 72(a).

This Court may set aside a magistrate judge’s order in a non-dispositive matter only if it is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a). A magistrate judge's order is clearly erroneous where “‘on the entire evidence,’ the [district court] is ‘left with the definite and firm conviction that a mistake has been committed.’” *Easley v. Cromartie*, 532 U.S. 234, 235 (2001) (quoting *United States v. United States Gypsum Co.*, 333 U.S. 364, 395 (1948)). Under this highly deferential standard of review, “magistrate judges are afforded broad discretion in resolving non-dispositive disputes and reversal is appropriate only if their discretion is abused.” *Flaberty v. Filardi*, 388 F. Supp. 2d 274, 283 (S.D.N.Y. 2005) (internal alterations omitted).


After reviewing the order in question, both parties’ submissions, and applicable legal authority, the Court concludes that the decision is neither clearly erroneous nor contrary to law.

Defendants' motion to set aside Judge Francis's September 11, 2014 order is DENIED.

The Clerk of Court is directed to terminate the motion pending at docket number 106.

SO ORDERED.

Dated: October 9, 2014
New York, New York



GREGORY H. WOODS
United States District Judge