

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSE MARIA ALVES DECASTRO and DJJ-MINING
& SERVICES (PRIVATE) LIMITED,

Plaintiffs,

-v-

DEEPAK KAVADIA and NICE GEMS, INC.,

Defendants.

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12-CV-1386 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

In an Order dated July 6, 2015, the Honorable Analisa Torres imposed sanctions against Defendants and their counsel and directed that Plaintiffs be awarded reasonable fees and costs for their sanctions motion. (Docket No. 186). Plaintiffs filed a fee application in accordance with that Order, seeking \$7,812. (Docket No. 196). In a Report and Recommendation filed on October 29, 2015 (Docket No. 201), Magistrate Judge Freeman recommended that the request be denied on the ground that Plaintiffs' counsel was unable to demonstrate that his fee records were maintained contemporaneously with the work performed. Upon review of the docket, the Court discovered that the Report and Recommendation was never acted upon.

In reviewing a Report and Recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). A district court "must determine *de novo* any part of the magistrate judge's disposition that has been properly objected to." Fed. R. Civ. P. 72(b)(3); *see also United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). To accept those portions of the report to which no timely objection has been made, however, a district court need only satisfy itself that

there is no clear error on the face of the record. *See, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003). This clearly erroneous standard also applies when a party makes only conclusory or general objections, or simply reiterates his original arguments. *See, e.g., Ortiz v. Barkley*, 558 F. Supp. 2d 444, 451 (S.D.N.Y. 2008).

In the present case, the Report and Recommendation advised the parties that they had 14 days from service of the Report and Recommendation to file any objections, and warned that failure to timely file such objections would result in waiver of any right to object. In addition, it expressly called Plaintiffs' attention to Rule 72 of the Federal Rules of Civil Procedure and Title 28, United States Code, Section 636(b)(1). Nevertheless, Plaintiffs have not filed an objection and no request for an extension of time to object has been made. Accordingly, Plaintiffs have waived the right to object to the Report and Recommendation or to obtain appellate review. *See Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992); *see also Caidor v. Onondaga County*, 517 F.3d 601 (2d Cir. 2008).

Despite the waiver, the Court has reviewed the Report and Recommendation, unguided by objections, and finds the Report and Recommendation to be well reasoned and grounded in fact and law. Specifically, the Court finds no clear error in Magistrate Judge Freeman's conclusion that contemporaneous time records are a prerequisite to an award of attorneys' fees. *See, e.g., Scott v. City of New York*, 626 F.3d 130, 133-34 (2d Cir. 2010). Accordingly, the Report and Recommendation is adopted in its entirety.

SO ORDERED.

Dated: March 3, 2017
New York, New York



JESSE M. FURMAN
United States District Judge