

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

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MARIA RIOS,,

Plaintiff,

17 CIVIL 0314 (LTS)(SDA)

-against-

**JUDGMENT**

SABAN KAPLAN,,

Defendants.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Order dated July 5, 2023, Petitioner's objection to the Report and Recommendation is denied in its entirety. The Court adopts the Report in all respects other than its consideration of the merits of Petitioner's second and fourth claims, as consideration of these claims is barred by Plaintiff's failure to exhaust. Judgment is entered accordingly. The order resolves docket entry no. 39. Petitioner may not appeal the order dated July 5, 2023 unless "a circuit justice or judge issues a certificate of appealability." 28 U.S.C.S. § 2253(c)(1) (LexisNexis 2008). A certificate will be granted "if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C.S. § 2253(c)(2) (LexisNexis 2008); see generally *United States v. Perez*, 129 F.3d 255, 259-60 (2d Cir. 1997) (discussing the standard for issuing a certificate of appealability). The Court finds that Petitioner will not be able to sustain this burden. The Court declines to issue a certificate of appealability.

**Dated:** New York, New York

July 6, 2023

**RUBY J. KRAJICK**

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**Clerk of Court**

**BY:**



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**Deputy Clerk**