

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
TOWAKI KOMATSU,	:	
	:	
Plaintiff,	:	
	:	18 Civ. 3698 (LGS)
-against-	:	
	:	<u>ORDER</u>
THE CITY OF NEW YORK, et al.,	:	
	:	
Defendants.	:	
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, on November 11, 2020, Plaintiff filed a letter, at Dkt. No. 433, addressed to Judge Gorenstein stating that Plaintiff had no legal obligation to respond to Defendants’ letter, at Dkt. No. 432, regarding Defendants’ anticipated motion to compel because Defendants’ letter did not comply with Federal Rule of Civil Procedure (“FRCP”) 10(b).

WHEREAS, on November 13, 2020, Judge Gorenstein denied Plaintiff’s application because FRCP 10(b) applies to “claims and defenses” in “pleadings” and not to other documents (Dkt. No. 434).

WHEREAS, on November 14, 2020, Plaintiff filed a letter objecting to Judge Gorenstein’s Order at Dkt. No. 434.

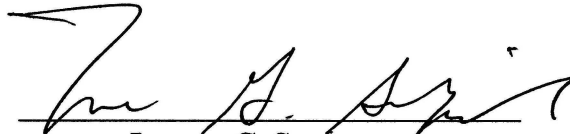
WHEREAS, for objections to a Magistrate Judge’s ruling on nondispositive matters, district courts must “modify or set aside any part of the order that is clearly erroneous or is contrary to law.” Fed. R. Civ. P. 72(a); *accord* 28 U.S.C. § 636(b)(1)(A). “A finding is ‘clearly erroneous’ when, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.” *Wu Lin v. Lynch*, 813 F.3d 122, 126 (2d Cir. 2016) (quoting *United States v. U.S. Gypsum Co.*, 333 U.S. 364, 395 (1948)). A ruling is contrary to law if it “fails to apply or misapplies relevant

statutes, case law or rules of procedure.” *Winfield v. City of New York*, No. 15 Civ. 5236, 2017 WL 5054727, at *2 (S.D.N.Y. Nov. 2, 2017) (internal citation omitted). “It is well-settled that a magistrate judge’s resolution of a nondispositive matter should be afforded substantial deference and may be overturned only if found to have been an abuse of discretion.” *Xie v. JPMorgan Chase Short-Term Disability Plan*, 15 Civ. 4546, 2018 WL 501605, at *1 (S.D.N.Y. Jan. 19, 2018) (internal citation omitted). It is hereby

ORDERED that Plaintiff’s objection to Judge Gorenstein’s November 13, 2020, Order (Dkt. No. 434) is overruled. Judge Gorenstein’s interpretation of FRCP 10(b) as applicable only to pleadings, such as a Complaint or Answer, is not clearly erroneous or contrary to law.

The Clerk of Court is respectfully directed to mail a copy of this Order to the pro se Plaintiff.

Dated: November 19, 2020
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE