

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FEDERAL INSURANCE CO., GREAT
NORTHERN INSURANCE COMPANY, and
PACIFIC INDEMNITY COMPANY,

Plaintiffs,

-against-

PAUL H. MERTZ, JR., THE MERTZ COMPANY,
and, DENNIS SORGE,

Defendants.

12-CV-1597 (NSR)(JCM)

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

NELSON S. ROMÁN, United States District Judge:

This case was referred to Magistrate Judge McCarthy for a Report and Recommendation on the award of attorneys' fees and costs. In a Report and Recommendation filed on April 14, 2017, Magistrate Judge McCarthy recommended that Plaintiffs' be awarded attorneys' fees in the amount of \$2,873,510.64 and costs in the amount of \$656,684.36 – for a total amount of \$3,530,195.00. (ECF No. 251.)

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

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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).

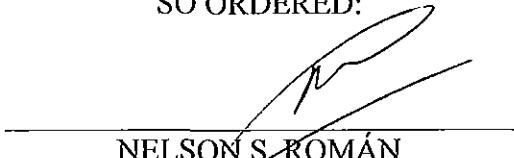
In the present case, the Report and Recommendation advised the parties that they had 14 days from service of the Report and Recommendation to file any objections, and warned that failure to timely file such objections would result in waiver of any right to object. In addition, it expressly called the parties' attention to Rule 72 of the Federal Rules of Civil Procedure and Title 28, United States Code, Section 636(b)(1). Nevertheless, as of the date of this Order, no objections have been filed and no request for an extension of time to object has been made. Accordingly, the parties 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 Caudor v. Onondaga County*, 517 F.3d 601 (2d Cir. 2008).

Despite the waiver, the Court has reviewed Plaintiffs' application¹ and the Report and Recommendation, unguided by objections, and finds the Report and Recommendation to be well reasoned and grounded in fact and law. Accordingly, the Report and Recommendation is adopted in its entirety.

The Clerk of Court is directed to enter judgment consistent with the Report and Recommendation and to terminate motion at ECF No. 232.

Dated: July 26, 2017
White Plains, New York

SO ORDERED:


NELSON S. ROMÁN
United States District Judge

¹ The Court notes that Magistrate Judge McCarthy directed Mertz Defendants to submit an opposition to Plaintiffs' motion, or otherwise notify the Court as to why no opposition was filed, by October 28, 2016. (See generally Scheduling Order dated October 21, 2016, ECF No. 238.) By letter dated October 28, 2016, the Mertz Defendants notified the Court that they "were not opposing the motion." (ECF No. 239.)