

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SUSAN HENDERSON,

Plaintiff,

v.

16-CV-785V(Sr)
DECISION AND ORDER

RITE AID OF NEW YORK, INC.,
RITE AID CORPORATION,
TIM MATTHEWS, and
DAVID SEELMAN,

Defendants.

On September 30, 2016, the plaintiff commenced this action. Docket Item 1. On December 2, 2016, this Court referred this case to United States Magistrate Judge H. Kenneth Schroeder, Jr., for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 13. On January 3, 2018, defendant Rite Aid Corporation moved to dismiss the complaint, Docket Item 42; on March 29, 2018, the plaintiff responded, Docket Item 47; and on May 11, 2018, Rite Aid Corporation replied, Docket Item 51. On June 18, 2018, Judge Schroeder issued a Report and Recommendation (“R&R”) finding that Rite Aid Corporation’s motion to dismiss should be granted. Docket Item 55. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a de novo review of those portions of a magistrate judge’s recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ.

P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Schroeder's R&R as well as the plaintiff's submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Schroeder's recommendation to grant Rite Aid Corporation's motion.

For the reasons stated above and in the R&R, the defendant's motion to dismiss, Docket Item 42, is GRANTED; the Clerk of Court is directed to take the necessary steps to terminate Rite Aid Corporation only from this case; and the case is referred back to Judge Schroeder for further proceedings consistent with the referral order of December 2, 2016, Docket Item 13.

SO ORDERED.

Dated: August 8, 2018
Buffalo, New York

s/ Lawrence J. Vilaro

LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE