

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SIT N' STAY PET SERVICES INC.,

Plaintiff,

v.

17-CV-116
DECISION AND ORDER

CARRIE HOFFMAN,

Defendant.

On February 7, 2017, the plaintiff commenced this action. Docket Item 1. On March 1, 2017, this Court referred this case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 7. On October 9, 2018, this Court approved and adopted the parties' stipulation settling this matter. Docket Item 42.

Under the terms of the order approving the stipulation, the plaintiff's motion for attorney fees and costs was due on December 10, 2018. *Id.* at 1. On December 12, 2018, the plaintiff moved for attorney fees, Docket Item 43, and for an extension of time to file that motion, Docket Item 45. On January 14, 2019, the plaintiff filed a supplemental memorandum in support of his motion for an extension of time to move for attorney fees, Docket Item 48, and on January 16, 2019, the defendant responded, Docket Item 49. On January 18, 2019, the plaintiff supplemented the record with additional documents pursuant to an order issued by Judge McCarthy on January 17, 2019. Docket Items 50 and 51. On February 1, 2019, Judge McCarthy issued a Report and Recommendation ("R&R") finding that the plaintiff's motions should be denied.

Docket Item 54. More specifically, Judge McCarthy found that there was no good reason to accept the late-filed motion for attorney fees and that the motion for attorney fees should be denied for substantive reasons as well. 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 McCarthy's R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge McCarthy's recommendation to deny the plaintiff's motions.

For the reasons stated above and in the R&R, the plaintiff's motions for attorney's fees, Docket Item 43, and for an extension of time to file a motion for attorney's fees, Docket Item 45, are DENIED. The case is referred back to Judge McCarthy to ensure compliance with Section D of the R&R, see Docket Item 54 at 13-15.

SO ORDERED.

Dated: February 20, 2019
Buffalo, New York

s/ Lawrence J. Vilaro

LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE