

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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CARL M. MILLER,

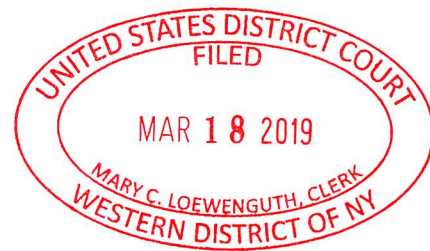
Plaintiff,

v.

COUNTY OF ERIE, DEPARTMENT OF  
SHERIFF OF ERIE COUNTY,  
TIMOTHY B. HOWARD, Erie County  
Sheriff, THOMAS DIINA,  
Superintendent, LIEUTENANT  
KRZYSZTOF KANIA, SERGEANT  
CHRISTIAN J. SUNDBERG, OFFICER  
DEANNA J. LATES, LIEUTENANT  
KAREN A. YETZER, OFFICER KEITH  
L. ROBERTS, SERGEANT RICHARD J.  
ZOZACZKA, OFFICER D. PAUL  
ROBINSON, OFFICER TIMOTHY M.  
WANAT, DAVIS JULIAN, P.A., JAMES  
THOMAS, JOSEPH DAMICO, ARIEL  
SIMMS, ROBERT GIBBENS, R.N., and  
JOHN DOES 1-10,<sup>1</sup>

Defendants.

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**ORDER**

1:17-CV-00928 EAW

This case, originally assigned to the Honorable Lawrence J. Vilardo, was referred for all pretrial matters and for reporting upon dispositive motions to United States Magistrate Judge Leslie G. Foschio pursuant to 28 U.S.C. §§ 636(b)(1)(A)-(C). (Dkt. 6). The case was transferred to the undersigned on June 14, 2018. (Dkt. 26). On February 27, 2019, Magistrate Judge Foschio issued a thorough Report and Recommendation

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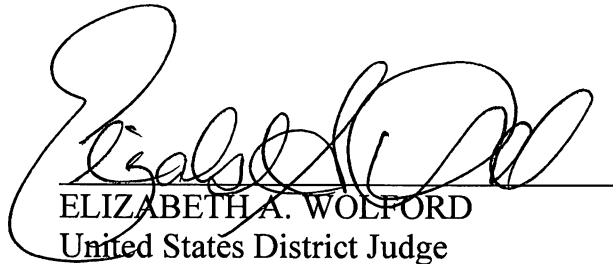
<sup>1</sup> The docket currently names Sargent Christian J. Sundberg and Sargent Richard J. Zozaczka as defendants. The Clerk of Court is instructed to amend these names to read Sergeant Christian J. Sundberg and Sergeant Richard J. Zozaczka.

recommending that Plaintiff's unopposed motion for default judgment (Dkt. 7) be granted in part and denied in part (Dkt. 51).

Pursuant to Fed. R. Civ. P. 72(b)(2) and 28 U.S.C. § 636(b)(1), the parties had 14 days after being served a copy of the Report and Recommendation to file objections. No objections were filed. The Court is not required to review *de novo* those portions of a report and recommendation to which objections were not filed. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure [to timely] object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision.").

Notwithstanding the lack of objections, the Court has conducted a careful review of the Report and Recommendation as well as the filings previously made in the case, and finds no reason to reject or modify the Report and Recommendation of Magistrate Judge Foschio. For the reasons set forth in the Report and Recommendation (Dkt. 51), this Court grants in part and denies in part Plaintiff's motion for default judgment (Dkt. 7).

SO ORDERED.



ELIZABETH A. WOLFORD  
United States District Judge

Dated: March 18, 2019  
Rochester, New York