

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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BENEDICT R. GENCO,

Plaintiff,

v.

18-CV-107V(R)  
DECISION AND ORDER

SARGENT & COLLINS LLP,

Defendant.

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On January 22, 2018, the plaintiff commenced this action. Docket Item 1. On February 21, 2018, this Court referred this case to United States Magistrate Judge Michael J. Roemer for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 7. On February 20, 2018, the defendant moved to dismiss, Docket Item 3; on March 1, 2018, the plaintiff responded, Docket Item 8; on March 29, 2018, the defendant replied, Docket Item 9; and on April 9, 2018, the plaintiff filed a sur-reply, Docket Item 10. On June 4, 2018, Judge Roemer issued a Report and Recommendation (“R&R”), finding that the defendant’s motion should be granted and the complaint dismissed with prejudice. Docket Item 15. 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 Roemer'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 Roemer's recommendation to grant the defendant's motion to dismiss.

For the reasons stated above and in the R&R, the defendant's motion to dismiss, Docket Item 3, is GRANTED; the complaint, Docket Item 1, is dismissed with prejudice; and the Clerk of Court shall close the file.

SO ORDERED.

Dated: August 10, 2018  
Buffalo, New York

***s/ Lawrence J. Vilaro***  
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LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE