

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

DELPHINE HENRY,

Plaintiff,

vs.

**Case No.: 2:12-cv-841
JUDGE SMITH
Magistrate Judge Abel**

ABBOTT LABORATORIES,

Defendant.

ORDER

On January 3, 2014, the United States Magistrate Judge issued a *Report and Recommendation* recommending that Plaintiff's Motion to Reinstate her civil case be granted on the grounds of excusable neglect. (*See Report and Recommendation*, Doc. 22). The parties were advised of their right to object to the *Report and Recommendation*. This matter is now before the Court on Defendant's Objection to the *Report and Recommendation*. (*See* Doc. 23). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

The Magistrate Judge held that Plaintiff was entitled to relief from judgment under Rule 60(b)(6). The objections, however, merely present the arguments and issues presented to and considered by the Magistrate Judge in the *Report and Recommendation*. Specifically, Defendant objects to the Magistrate Judge's conclusion, arguing that "Judge Abel either wrongfully discounted or ignored Plaintiff's negligence." (Objections at 3). In closely reviewing this case, the Court was also troubled by Plaintiff's own negligence in signing off on the withdrawal of her

former attorney and providing an incorrect mailing address. If that was the end of the analysis, the outcome of this decision might be different. As Defendant correctly asserts, had Plaintiff correctly provided her mailing address, she would have been informed of the status of her case. However, Plaintiff at some point began discussing her case with Attorney Patmon, although it is unclear as to how soon after the withdrawal. Nonetheless, the Magistrate Judge correctly reasoned that “plaintiff believed that she was represented by counsel and had no reason to expect the Court would be contacting her.” (R&R at 5). Therefore, for the reasons stated in the *Report and Recommendation*, this Court finds that the objections are without merit.

The *Report and Recommendation*, Document 22, is **ADOPTED** and **AFFIRMED**. Plaintiff’s motion to reinstate her case (Doc. 17) and her motion for leave to file a supplemental motion for relief from judgment instanter are hereby **GRANTED**. Accordingly, the Clerk of this Court is hereby instructed to reopen this case.

The Clerk shall remove Documents 17, 20, and 22 from the Court’s pending motions list.

IT IS SO ORDERED.

/s/ George C. Smith

GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT