

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

DAVID FEATHERSTONE,

Plaintiff,

v.

**Civil Action 2:16-cv-663
Judge Michael H. Watson
Magistrate Judge Jolson**

REIKE PACKAGING SYSTEMS,

Defendant.

REPORT AND RECOMMENDATION

This action was initiated on June 8, 2016, in the Franklin County Court of Common Pleas, and was removed by Defendant to this Court on July 8, 2016. (Doc. 1). Following the preliminary pretrial conference (Doc. 8), the undersigned directed the parties to file a joint Rule 26(f) report by September 30, 2016. (Doc. 9). While the parties conferred on two separate occasions, they could not reach an agreement regarding a joint report. (*See* Doc. 10). Thus, Defendant submitted its own Report on September 30, 2016. (*Id.*). Plaintiff failed to file his own 26(f) Report, and over the last eighteen months, it appears that Plaintiff has made no effort to prosecute his case.

Consequently, the undersigned scheduled a telephonic status conference in this matter on April 10, 2018. (Doc. 11). Counsel for Defendant appeared, but no appearance was made by, or on behalf of, Plaintiff. Based on this Court's review of the docket, it appears that Plaintiff no longer intends to pursue this action. Indeed, Counsel for Defendant represented to the Court that she has not been in contact with Plaintiff since September 2016. The Court may dismiss an action for failure to prosecute under its inherent power to control its docket, *see Link v. Wabash*

R.R. Co., 370 U.S. 626, 629 (1962), or under Rule 41(b) of the Federal Rules of Civil Procedure. Based upon the foregoing, the Court **RECOMMENDS** that this action be dismissed.

Procedure on Objections

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

Date: April 10, 2018

/s/ Kimberly A. Jolson
KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE