

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

TAMMY SHELTON,

Plaintiff,

v.

CAFÉ RIO d.b.a. CAFÉ RIO MEXICAN
GRILL,

Defendant.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 1:17-cv-00101-JNP-BCW

Judge Jill N. Parrish


Plaintiff Tammy Shelton moved for an extension of time for service of the Complaint and Summons in this case. [Docket 7]. In response, Magistrate Judge Wells issued a Report and Recommendation that the motion be denied and that Shelton's Complaint be dismissed without prejudice for a failure to serve the Complaint on Café Rio within 90 days. [Docket 8]. Judge Wells notified Shelton that she had 14 days to object to the Report and Recommendation and that a failure to object may constitute a waiver of any objections.

Shelton did not file an objection to the Report and Recommendation. She therefore waived any argument that the Report and Recommendation was in error. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996). The court will decline to apply the waiver rule only if "the interests of justice so dictate." *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). The court has reviewed the Report and Recommendation and concludes that it is not clearly erroneous and finds that the interests of justice do not warrant deviation from the waiver rule.

The court, therefore, ADOPTS the Report and Recommendation and DENIES Shelton's motion for an extension of time for service. The court ORDERS that Shelton's action be DISMISSED WITHOUT PREJUDICE.

SO ORDERED December 5, 2017.

BY THE COURT:



JILL N. PARRISH
United States District Judge