

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

JOSEPH HUSSELL,

Plaintiff,

v.

Civil Action No. 2:19-cv-00101

ROBERT BOGGS,

Defendant.

ORDER

This action was previously referred to Dwane L. Tinsley, United States Magistrate Judge, who has submitted on December 1, 2021, his Proposed Findings and Recommendation ("PF&R") pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B). PF&R, ECF No. 61.

The court has reviewed the PF&R, and the magistrate judge recommends as follows:

[I]t is respectfully recommended that the presiding District Judge grant Defendant's renewed Motion to Dismiss for Plaintiff's Second Failure to Appear at his Deposition and Defendant's Amended Renewed Motion to Dismiss for Plaintiff's Second Failure to Appear at his Deposition, but deny Defendant's alternative motions to compel Plaintiff's deposition contained therein. It is further respectfully recommended that the presiding District Judge award Defendant the costs associated with his failed attempts to obtain Plaintiff's deposition due to Plaintiff's noncompliance. Finally, it is respectfully recommended that the presiding District Judge deny as moot Defendant's Renewed Motion for Summary Judgment.

Id. at 7 (emphasis and citations omitted). Service of the PF&R on the plaintiff, who is proceeding pro se, was returned as undeliverable at his last known address. See ECF No. 62.

Local Rule of Civil Procedure 83.5 provides that pro se litigants "must advise the clerk promptly of any changes in name, address, and telephone number." The pro se plaintiff in this matter has not done so. The plaintiff has consequently waived the right to full district court review of the PF&R for failing to file "specific written objections." Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); see also Solis v. Malkani, 638 F.3d 269, 273-74 (4th Cir. 2011).

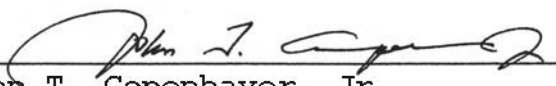
Accordingly, it is ORDERED that:

1. The Proposed Findings and Recommendation be, and hereby is, adopted by the court and incorporated herein;
2. The defendant's renewed motion to dismiss for plaintiff's second failure to appear at his deposition, ECF No. 57, be, and hereby is, granted;
3. The defendant's amended renewed motion to dismiss for plaintiff's second failure to appear at his deposition, ECF No. 58, be, and hereby is, granted;

4. The defendant's alternative motions to compel the plaintiff's deposition, ECF No. 57-58, be, and hereby are, denied;
5. The defendant's renewed motion for summary judgment, ECF No. 59, be, and hereby is, denied as moot;
6. The plaintiff's civil action be, and hereby is, dismissed;
7. The defendant's costs associated with his failed attempts to obtain the plaintiff's deposition be, and hereby are, charged against the plaintiff in favor of the defendant, which costs aggregate \$177.85 and consist of the reporter's fees incurred for attendance at each of three scheduled depositions of the plaintiff at which the plaintiff failed to appear; and
8. This action be, and hereby is, dismissed from the docket.

The Clerk is directed to forward copies of this order to all counsel of record, any unrepresented parties, and the United States Magistrate Judge.

ENTER: April 14, 2022

  
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John T. Copenhaver, Jr.  
Senior United States District Judge