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**APPENDIX A — ORDER AND JUDGMENT OF THE  
UNITED STATES COURT OF APPEALS FOR THE  
TENTH CIRCUIT, FILED SEPTEMBER 5, 2025**

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

No. 24-1372

KATHARINA KATJA ISABEL MEIER, IN HER  
INDIVIDUAL PERSONAL CAPACITY AND IN  
HER CAPACITY AS NEXT FRIEND OF NBM,  
HER MINOR CHILD,

*Plaintiff-Appellant,*

v.

ASPEN ACADEMY; SUZANNE GOODSPEED,  
INDIVIDUAL AND OFFICIAL CAPACITIES AS  
A MEMBER OF THE ASPEN ACADEMY BOARD  
OF TRUSTEES AND THE BOARDS CHAIR;  
WAYNE GUERRA, M.D. INDIVIDUAL AND  
OFFICIAL CAPACITIES AS A MEMBER OF THE  
ASPEN ACADEMY BOARD OF TRUSTEES AND  
THE BOARDS ADVANCEMENT COMMITTEE  
AND STRATEGIC INITIATIVES COMMITTEE;  
JAMES JOHNSON, INDIVIDUAL AND OFFICIAL  
CAPACITIES AS A MEMBER OF THE ASPEN  
ACADEMY BOARD OF TRUSTEES AND THE  
BOARDS SAFETY & SECURITY COMMITTEE;  
JACK KEENAN, INDIVIDUAL AND OFFICIAL  
CAPACITIES AS A MEMBER OF THE ASPEN  
ACADEMY BOARD OF TRUSTEES AND THE

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BOARDS FINANCE & AUDIT COMMITTEE AND INVESTMENT COMMITTEE; LEW KLING, INDIVIDUAL AND OFFICIAL CAPACITIES AS A MEMBER OF THE ASPEN ACADEMY BOARD OF TRUSTEES AND THE BOARDS FINANCE & AUDIT COMMITTEE AND INVESTMENT COMMITTEE; CORINNE LENGSELD, INDIVIDUAL AND OFFICIAL CAPACITIES AS A MEMBER OF THE ASPEN ACADEMY BOARD OF TRUSTEES AND THE BOARDS SAFETY & SECURITY COMMITTEE; BRIAN MEEGAN, INDIVIDUAL AND OFFICIAL CAPACITIES AS A MEMBER OF THE ASPEN ACADEMY BOARD OF TRUSTEES AND THE BOARDS COMPENSATION COMMITTEE; JAMES PARK, INDIVIDUAL AND OFFICIAL CAPACITIES AS A MEMBER OF THE ASPEN ACADEMY BOARD OF TRUSTEES AND THE BOARDS ADVANCEMENT COMMITTEE (DEVELOPMENT); KRISTINA SCALA, INDIVIDUAL AND OFFICIAL CAPACITIES AS A MEMBER OF THE ASPEN ACADEMY BOARD OF TRUSTEES AND ASPEN ACADEMY FOUNDER & PRESIDENT AND ASPEN ACADEMY REGISTERED AGENT; ARJUN SEN, INDIVIDUAL AND OFFICIAL CAPACITIES AS A MEMBER OF THE ASPEN ACADEMY BOARD OF TRUSTEES AND THE BOARDS ADVANCEMENT COMMITTEE (BRANDING); BRAD TUCKER, INDIVIDUAL AND OFFICIAL CAPACITIES AS A MEMBER OF THE ASPEN ACADEMY BOARD OF TRUSTEES AND THE BOARDS GOVERNANCE

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COMMITTEE; LORI TAYLOR, INDIVIDUAL AND OFFICIAL CAPACITIES AS A MEMBER OF THE ASPEN ACADEMY BOARD OF TRUSTEES AND THE BOARDS ADVANCEMENT COMMITTEE; TIM TAYLOR, INDIVIDUAL AND OFFICIAL CAPACITIES AS A MEMBER OF THE ASPEN ACADEMY BOARD OF TRUSTEES AND THE BOARDS ADVANCEMENT COMMITTEE AND STRATEGIC INITIATIVES COMMITTEE; DARRYL WATTERS, INDIVIDUAL AND OFFICIAL CAPACITIES AS A MEMBER OF THE ASPEN ACADEMY BOARD OF TRUSTEES AND THE BOARDS FINANCE & AUDIT COMMITTEE AND INVESTMENT COMMITTEE; COREY SAMPSON, INDIVIDUAL AND OFFICIAL CAPACITIES AS MIDDLE SCHOOL PRINCIPAL OF ASPEN ACADEMY; JOHN DOES 1-7, WHOSE TRUE NAMES, IDENTITIES, AND CAPACITIES ARE UNKNOWN, AND JANE DOES 1-7, WHOSE TRUE NAMES, IDENTITIES, AND CAPACITIES ARE UNKNOWN; GEORGE SPARKS, INDIVIDUAL AND OFFICIAL CAPACITIES AS A MEMBER OF THE ASPEN BOARD OF TRUSTEES AND THE BOARD'S PAST CHAIR,

*Defendants-Appellees.*

*Appendix A***ORDER AND JUDGMENT\***

Before **HARTZ, MORITZ, and ROSSMAN**, Circuit Judges.

Plaintiff Katharina Katja Isabel Meier, in her individual personal capacity and as next friend of NBM, her minor child, sued Defendant Aspen Academy and numerous individuals affiliated with Aspen Academy (Defendants) in the United States District Court for the District of Colorado. Plaintiff alleged that each Defendant acted as a state actor in violating her rights under the United States and Colorado constitutions. Defendants moved to dismiss the lawsuit, and the district court referred the motion to a magistrate judge, who recommended dismissal. Plaintiff filed no objection to the recommendation. The district court adopted the recommendation and entered judgment in Defendants' favor. Because Plaintiff failed to object to the recommendation, she waived her right to appellate review. We therefore dismiss this appeal.

After this appeal was docketed, we issued an order identifying "a probable procedural defect that may preclude appellate review," and informed Plaintiff that we were "considering summary disposition of this appeal."

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\* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

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Order at 1, ECF No. 10 (filed Oct. 7, 2024). To avoid dismissal, Plaintiff needed to file a memorandum brief addressing “whether [Plaintiff] waived appellate review because no specific written objections to the magistrate judge’s report and recommendation were filed before the district court adopted the recommendation.” *Id.* at 2. Plaintiff filed a memorandum brief, and Defendants filed a response.

Plaintiff’s brief concedes that she did not file objections to the magistrate judge’s recommendation. “We have adopted a firm-waiver rule providing that the failure to make timely objections to a magistrate judge’s recommendations waives appellate review of both factual and legal questions.” *Allman v. Colvin*, 813 F.3d 1326, 1329 (10th Cir. 2016) (brackets and internal quotation marks omitted). There are only two exceptions to this rule: “when (1) a *pro se* litigant has not been informed of the time period for objecting and the consequences of failing to object, or when (2) the interests of justice require review.” *Morales-Fernandez v. INS*, 418 F.3d 1116, 1119 (10th Cir. 2005) (internal quotation marks omitted).

Neither exception applies here. The first exception does not apply because Plaintiff is represented by counsel.<sup>1</sup> Plaintiff has not invoked the second exception, but even if she had, we have applied that exception to a counseled party “only in the rare circumstance in which [the] party

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1. Although Plaintiff is represented, we also note that the magistrate judge’s recommendation specifically advised Plaintiff and her counsel of the need to file objections to preserve any potential right to appellate review.

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did not receive a copy of the magistrate's [report and recommendation]." *Vega v. Suthers*, 195 F.3d 573, 580 (10th Cir. 1999). Plaintiff does not claim that her counsel did not receive a copy of the magistrate judge's recommendation.

Instead, Plaintiff states that her counsel elected not to file objections to the magistrate judge's recommendation because doing so would have been futile and a waste of resources. She contends that because the magistrate judge entered a stay of discovery, she had no way to prove the jurisdictional facts necessary to overcome Defendants' motion to dismiss, so the district judge would have adopted the magistrate judge's recommendation regardless of whether she objected. We question the merits of this argument, since the obvious solution would have been to file an objection to the stay of discovery, arguing at least that discovery on jurisdictional facts should be permitted before ruling on the motion. In any event, Plaintiff cites no authority in support of a futility exception to the firm-waiver rule, and we have found none. And contrary to her contention that the rule wastes judicial resources, the Supreme Court has noted that one of its purposes is to *promote* the efficient use of judicial resources. *See Thomas v. Arn*, 474 U.S. 140, 147, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985) (rule requiring filing of objections to preserve right to appellate review "is supported by sound considerations of judicial economy").

Plaintiff also invokes a local rule of this court in urging us to suspend application of the firm-waiver rule in this instance. *See* 10th Cir. R. 2.1 ("The court may suspend any part of *these* rules in a particular case on its own or on a

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party's motion." (emphasis added)). But the firm-waiver rule is not one of this court's local rules referenced by the "these rules" language of Rule 2.1. And even if it were, we would not be inclined to exercise our discretion to provide Plaintiff an escape hatch.

We have jurisdiction under 28 U.S.C. § 1291 and dismiss this appeal. We deny as moot Plaintiff's Motion to Take Judicial Notice.

Entered for the Court

Harris L. Hartz  
Circuit Judge



**APPENDIX B — ORDER OF THE UNITED STATES  
DISTRICT COURT FOR THE DISTRICT OF  
COLORADO, FILED AUGUST 19, 2024**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**  
Judge Regina M. Rodriguez

Civil Action No. 23-cv-02637-RMR-NRN

KATHARINA KATJA ISABEL MEIER, in her  
individual personal capacity and in her capacity  
as next friend of NBM, her minor child,

*Plaintiffs,*

v.

ASPEN ACADEMY, *et al.*,

*Defendants.*

Filed August 19, 2024

**ORDER ADOPTING MAGISTRATE JUDGE'S  
RECOMMENDATION**

This matter is before the Court on the Recommendation of United States Magistrate Judge, entered on August 1, 2024, ECF No. 72, addressing Defendants' Motion to Dismiss, ECF No. 58. Magistrate Judge N. Reid Neureiter recommends that the Motions to Dismiss be granted. No party has objected to the Recommendation.

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In the absence of an objection, the district court may review a magistrate judge's recommendation under any standard it deems appropriate. *See Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985) ("[i]t does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings"). In this matter, the Court has reviewed the Recommendation to satisfy itself that there is "no clear error on the face of the record."<sup>1</sup> Fed. R. Civ. P. 72(b), Advisory Committee Notes. Based on this review, the Court has concluded that the Recommendation is a correct application of the facts and the law. Even if the Court were to consider the issue de novo, the Court agrees with the Recommendation and finds that it accurately sets forth and applies the appropriate legal standard.

Accordingly, it is **ORDERED** as follows:

- 1) The Recommendation of the United States Magistrate Judge, ECF No. 72, is **ACCEPTED and ADOPTED**;
- 2) Defendants' Motion to Dismiss, ECF No. 58 is **GRANTED**;
- 3) This case is **DISMISSED WITH PREJUDICE**.

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1. This standard of review is something less than a "clearly erroneous or contrary to law" standard of review, Fed. R. Civ. P. 72(a), which in turn is less than a de novo review. Fed R. Civ. P. 72(b).

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DATED: August 19, 2024

BY THE COURT:

/s/ Regina M. Rodriguez  
REGINA M. RODRIGUEZ  
United States District Judge

**APPENDIX C — FINAL JUDGMENT OF  
THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO,  
FILED AUGUST 19, 2024**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Regina M. Rodriguez

Civil Action No. 23-cv-02637-RMR-NRN

KATHARINA KATJA ISABEL MEIER,  
IN HER INDIVIDUAL PERSONAL CAPACITY  
AND IN HER CAPACITY AS NEXT FRIEND  
OF NBM, HER MINOR CHILD,

*Plaintiffs,*

v.

ASPEN ACADEMY, *et al.*,

*Defendants.*

Filed August 19, 2024

**FINAL JUDGMENT**

In accordance with the orders filed during the pendency of this case, and pursuant to Fed. R. Civ. P. 58(a), the following Final Judgment is hereby entered.

Pursuant to the Order Adopting Magistrate Judge's Recommendation entered by Judge Regina M. Rodriguez on August 19, 2024 [ECF No. 73] it is

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ORDERED that the Recommendation [72], is  
ACCEPTED and ADOPTED. It is

FURTHER ORDERED that Defendants' Motion  
to Dismiss [ECF No. 58] is GRANTED and this case is  
DISMISSED WITH PREJUDICE. It is

FURTHER ORDERED that judgment is entered in  
favor of the Defendants and against the Plaintiffs. It is

FURTHER ORDERED that Defendants are awarded  
their costs to be taxed by the Clerk of the Court in the  
time and manner prescribed in Fed. R. Civ. P. 54(d)(1) and  
D.C.COLO.LCivR 54.1.

This case will be closed.

Dated at Denver, Colorado this 19th day of August,  
2024.

FOR THE COURT:  
JEFFREY P. COLWELL, CLERK

By: /s/K. Myhaver  
K. Myhaver  
Deputy Clerk

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**APPENDIX D — ORDER OF THE UNITED STATES  
COURT OF APPEALS FOR THE TENTH CIRCUIT,  
FILED OCTOBER 3, 2025**

**UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT**

No. 24-1372  
(D.C. No. 1:23-CV-02637-RMR-NRN)  
(D. Colo.)

**KATHARINA KATJA ISABEL MEIER,  
IN HER INDIVIDUAL PERSONAL CAPACITY  
AND IN HER CAPACITY AS NEXT FRIEND  
OF NBM, HER MINOR CHILD,**

*Plaintiff-Appellant,*

v.

**ASPEN ACADEMY, *et al.*,**

*Defendants-Appellees.*

Filed October 3, 2025

**ORDER**

Before **HARTZ, MORITZ, and ROSSMAN**, Circuit  
Judges.

Appellants' petition for rehearing is denied.

The petition for rehearing en banc was transmitted  
to all of the judges of the court who are in regular active

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service. As no member of the panel and no judge in regular active service on the court requested that the court be polled, that petition is also denied.

Entered for the Court

/s/ Christopher M. Wolpert  
CHRISTOPHER M. WOLPERT, Clerk