

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ANTON PURISIMA,

Plaintiff,

-against-

TIFFANY ENTERTAINMENT, JOHN DOE
and JANE DOE,

Defendants.
-----X

NICHOLAS G. GARAUFIS, United States District Judge.

ORDER

09-CV-03502 (NGG) (LB)

FILED
CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ AUG 29 2012 ★

BROOKLYN OFFICE

Plaintiff Anton Purisima brought this pro se action against Tiffany Entertainment Group, Inc. ("Tiffany") and two unnamed defendants. (Compl. (Docket Entry # 4-2); Second Am. Compl. (Docket Entry # 66).) Purisima alleges that Tiffany, a company that provided him with bus service between New York City and Foxwoods Resort Casino on June 13 and 14, 2009, discriminated against him on the basis of race, color, and national origin by giving preferential treatment to those passengers who appeared to be Chinese, including by assigning non-Chinese passengers to seats in the rear of the bus, by refusing to refund unused tickets purchased by non-Chinese customers, and by offering only Chinese-language entertainment on the trip. (Second Am. Compl.) Purisima alleges that these actions violated Title II of the Civil Rights Act of 1964, 42 U.S.C. § 2000a et seq., and the New York City Human Rights Law, N.Y. City Admin. Code § 8-107 et seq. (Id. ¶ 38.)

On November 28, 2011, Tiffany filed a motion to dismiss the Second Amended Complaint for lack of subject matter jurisdiction, which the court construes as brought pursuant to Federal Rule of Civil Procedure 12(b)(1). (Docket Entry # 83.) The court referred this motion

to Magistrate Judge Lois Bloom for a report and recommendation, pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b)(1). (Docket Entry # 94.)

On August 10, 2012, Judge Bloom issued her Report and Recommendation (“R&R”) recommending that Tiffany’s motion be denied and that Tiffany be directed to respond to Purisima’s Second Amended Complaint within fourteen days pursuant to Federal Rule of Civil Procedure 12(a)(4). (R&R (Docket Entry # 96) at 2, 9.) No party has objected to Judge Bloom’s R&R, and the time to do so has passed. See Fed. R. Civ. P. 72(b)(2). Accordingly, the court reviews the R&R for clear error. See La Torres v. Walker, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000); Gesualdi v. Mack Excavation & Trailer Serv., Inc., No. 09-CV-2502 (KAM) (JO), 2010 WL 985294, at *1 (E.D.N.Y. Mar. 15, 2010); cf. 28 U.S.C. § 636(b)(1).

The court has reviewed Judge Bloom’s well-reasoned R&R for clear error and finds none. Accordingly, the court ADOPTS the R&R in its entirety. See Porter v. Potter, 219 F. App’x 112, 112-13 (2d Cir. 2007). Tiffany’s motion to dismiss for lack of subject matter jurisdiction is DENIED. Tiffany shall respond to Purisima’s Second Amended Complaint within fourteen days of the date of this Order.

SO ORDERED.

Dated: Brooklyn, New York
August 21, 2012

s/NGG

NICHOLAS G. GARAUFI
United States District Judge