

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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THERESA ANN EDREHI,

Plaintiff,

-against-

BROOKHAVEN SCIENCE ASSOCIATES, LLC,
as manager and operator of Brookhaven National
Laboratory,

Defendant.

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FEUERSTEIN, District Judge:

ORDER
15-cv-5940 (SJF)(AYS)

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ SEP 27 2017 ★

LONG ISLAND OFFICE

Plaintiff Theresa Ann Edrehi ("Plaintiff" or "Edrehi") commenced this action against Defendant Brookhaven Science Associates, LLC, as manager and operator of Brookhaven National Laboratory ("Defendant" or "Brookhaven"), alleging violations of Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e *et seq.*, and the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12111 *et seq.* See Docket Entry ("DE") [1]. On September 28, 2016, Defendant filed a motion to dismiss Plaintiff's Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(6), or, in the alternative, to strike Plaintiff's claim for economic damages pursuant to Fed. R. Civ. P. 12(f), which this Court referred to Magistrate Judge Anne Y. Shields for a Report and Recommendation as to whether the motion should be granted. DE [29]. Presently before the Court is Magistrate Judge Shields' August 30, 2017 Report and Recommendation (the "Report") recommending that Defendant's motion be granted in part and denied in part. DE [37]. For the reasons set forth herein, Magistrate Judge Shields' Report is adopted in its entirety.

Pursuant to Fed. R. Civ. P. 72, a magistrate judge may conduct proceedings of dispositive pretrial matters without the consent of the parties. Fed. R. Civ. P. 72(b). The district court may accept, reject, or modify, in whole or in part, the findings and recommendations of the magistrate judge. *DeLuca v. Lord*, 858 F. Supp. 1330, 1345 (S.D.N.Y. 1994); *see also* 28 U.S.C. § 636(b)(1);

Fed. R. Civ. P. 72(b). Where there are no specific written objections to a magistrate judge's report and recommendation, the district court may accept the findings contained therein as long as the factual and legal bases supporting the findings are not clearly erroneous. *Thomas v. Arn*, 474 U.S. 140, 150, 106 S. Ct. 466, 472 (1985). Therefore, to accept the report and recommendation of a magistrate judge on a dispositive matter to which no timely objection has been made, the district court need only be satisfied that there is no clear error on the face of the record. *See* Fed. R. Civ. P. 72(b); *Johnson v. Goord*, 487 F. Supp. 2d 377, 379 (S.D.N.Y. 2007), *aff'd*, 305 F. App'x 815 (2d Cir. 2009); *Baptichon v. Nevada State Bank*, 304 F. Supp. 2d 451, 453 (E.D.N.Y. 2004), *aff'd*, 125 F. App'x 374 (2d Cir. 2005).

No objections to Magistrate Judge Shields' August 30, 2017 Report have been filed, and the deadline to object has expired. *See* 28 U.S.C. § 636(b)(1) (requiring that objections be filed within fourteen (14) days of being served with a copy of the report and recommendation); Fed. R. Civ. P. 72(b)(2). Upon review, the Court is satisfied that the Report is not facially erroneous. Therefore, Magistrate Judge Shields' Report is adopted in its entirety, and Defendant's motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) is granted in part and denied in part. Specifically, Defendant's motion is: (i) granted with respect to Plaintiff's claims arising under the ADA; (ii) granted with respect to Plaintiff's claims arising under Title VII that accrued prior to April 25, 2014 as such claims are time barred; and (iii) denied with respect to Plaintiff's claims arising under Title VII that accrued on or after April 25, 2014. Furthermore, Defendant's motion to strike Plaintiff's claim for economic damages pursuant to Fed. R. Civ. P. 12(f) is granted insofar as any verdict ultimately awarded for wages, accrued vacation, sick time, and the calculation of Plaintiff's seniority will be set off by amounts already awarded to Plaintiff in connection with the settlement of Plaintiff's Grievance No. 2014-030.

Dated: Central Islip, New York
September 27, 2017

SO ORDERED.

s/ Sandra J. Feuerstein
Sandra J. Feuerstein
United States District Judge