

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

THOMAS J. MORAN,

Plaintiff,

vs.

1:17-CV-422
(TJM/CFH)

VICTOR P. DEAMELIA, AMANDA COLOMB, and
NICOLE COMSTOCK,

Defendants.

Thomas J. McAvoy,
Sr. U.S. District Judge

DECISION & ORDER

This *pro se* civil action, brought pursuant to the Americans with Disabilities Act (“ADA”) and Title VII of the Civil Rights Act of 1964 (“Title VII”), was referred to the Hon. Christian F. Hummel, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

The Report-Recommendation, dated April 20, 2017, provided the Complaint—filed *in forma pauperis*—with a preliminary screening. After engaging in that screening, Magistrate Judge Hummel recommended that Plaintiff’s complaint be dismissed in its entirety. The Magistrate Judge recommended that some claims be dismissed with prejudice and some without prejudice. He also recommended that Plaintiff’s motion for appointment of counsel be denied without prejudice.

Plaintiff has filed objections to the Report-Recommendation. When objections to a magistrate judge's Report-Recommendation are lodged, the Court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1). After such a review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." Id.

Having reviewed the record *de novo* and having considered the issues raised in the Plaintiff's objections, the Court has determined to accept and adopt the recommendation of Magistrate Judge Hummel for the reasons stated in the Report-Recommendation.

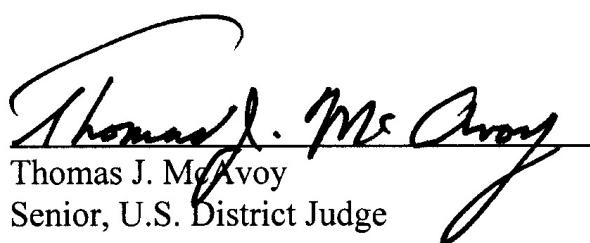
Therefore, the Plaintiff's objections to the Report-Recommendation of Magistrate Judge Hummel, Dkt. # 6, are hereby **OVERRULED**. The Report-Recommendation, Dkt. # 5, is hereby **ADOPTED**; and:

1. Plaintiff's Title VII claims are hereby **DISMISSED** with prejudice;
2. Plaintiff's ADA claims are hereby **DISMISSED** against Defendants Victor P. DeAmelia, Amanda Colomb, and Nicole Comstock, with prejudice;
3. Plaintiff's ADA claims are hereby **DISMISSED** without prejudice to Plaintiff bringing ADA claims against a proper defendant in the future;
4. Plaintiff's demand for punitive damages under the ADA is hereby **DISMISSED** with prejudice;
5. Plaintiff's demand for compensatory and injunctive relief under the ADA is hereby **DISMISSED** without prejudice; and

6. Plaintiff's motion for appointment of counsel, dkt. # 3, is hereby **DENIED** without prejudice.

IT IS SO ORDERED.

Dated: June 28, 2017



Thomas J. McAvoy
Senior, U.S. District Judge