

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>9/12/2017</u>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TORRANCE A. AKINSANYA,	:	
	:	
Plaintiff,	:	16-CV-3332 (VEC)(KNF)
	:	
-against-	:	<u>ORDER ADOPTING REPORT &</u>
	:	<u>RECOMMENDATION</u>
	:	
NEW YORK CITY HEALTH AND	:	
HOSPITALS CORPORATION – KINGS	:	
COUNTY HOSPITAL CENTER; ERNEST J.	:	
BAPTISTE; GHASSEN JHAMALEDDINE,	:	
	:	
Defendants.	:	
-----	X	
VALERIE CAPRONI, United States District Judge:		

Plaintiff Torrance A. Akinsanya, proceeding pro se, alleges that her former employers discriminated against her on the basis of her race, age, sex, and national origin. She brings claims under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and State and local law. In response, Defendants moved to dismiss for failure to state a claim. Dkt. 16. On November 1, 2016, this Court referred the action to Magistrate Judge Fox for the preparation of a Report and Recommendation pursuant to 28 U.S.C. § 636(b). Dkt. 21. Akinsanya did not file an opposition to the Defendants’ motion, despite the Magistrate Judge’s extension of her time to do so. See Dkt. 24. On July 28, 2017, Judge Fox issued his Report and Recommendation (the “R&R”), recommending the Court grant Defendants’ motion to dismiss with respect to all claims. Dkt. 28. Plaintiff has not filed any objections to the R&R and her time to do so has expired.

DISCUSSION

In reviewing a report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C.

§ 636(b) (1)(C). When no objections are made to a magistrate judge’s report, a district court may adopt the report so long as “there is no clear error on the face of the record.” *Phillips v. Reed Grp., Ltd.*, 955 F. Supp. 2d 201, 211 (S.D.N.Y. 2013) (citing *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). Failure to file timely objections to the magistrate judge’s report constitutes a waiver of those objections in the district court and on later appeal to the United States Court of Appeals. *See Small v. Sec’y of Health & Human Servs.*, 892 F. 2d 15, 16 (2d Cir. 1989) (*per curiam*); *see also Thomas v. Arn*, 474 U.S. 140, 149–50 (1985) (holding that Section 636 does not require review of a magistrate’s findings if no party objects).

Because no objections to the R&R were filed, the Court reviews for “clear error.” *Phillips*, 955 F. Supp. 2d at 211. Upon careful review, the Court finds no clear error in Magistrate Judge Fox’s well-reasoned decision. Accordingly, the Court adopts the R&R in full.

CONCLUSION

Defendants’ motion to dismiss is GRANTED. As noted above, Plaintiff did not file an opposition to the motion to dismiss or objections to the R&R. Nonetheless, because Plaintiff is proceeding pro se, the Court will permit Plaintiff, if she chooses, to file a motion for leave to amend on or before **October 6, 2017**. Any motion for leave to amend must attach as an exhibit a proposed amended complaint. Plaintiff is reminded, however, that pro se litigants, like all litigants, are required to submit only pleadings that are supported by fact and law.¹ Breach of this duty may result in sanctions, including an award of attorneys’ fees to Defendants. Fed. R.

¹ Should Plaintiff be interested in assistance in this litigation, she may contact the District’s pro se clinic, which is available to help pro se litigants such as herself. The Clinic is not a part of, or run by, the Court, it is operated by a private organization, the New York Legal Assistance Group. The Clinic is located in the Thurgood Marshall United States Courthouse, 40 Centre Street, New York, New York, in Room 1122. The Clinic is open on weekdays from 10 a.m. to 4 p.m., except on days when the Court is closed. An unrepresented party can make an appointment in person or by calling 212-659-6190.

Civ. P. 11(b), (c). Failure to move for leave to amend will result in dismissal of this action with prejudice.

The Clerk of Court is respectfully requested to close the open motion at docket entry 16. The Clerk of Court is further requested to mail a copy of this Order and the R&R to Plaintiff and note service on the docket.

SO ORDERED.

A handwritten signature in blue ink, reading "Valerie Caproni", is written over a horizontal line.

Date: September 12, 2017
New York, New York

VALERIE CAPRONI
United States District Judge