

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



PATRICIA LEE ROHRING,

Plaintiff,

v.

19-CV-905 (JLS) (MJR)

PEGASUS SUPPORT SERVICES,
LLC, RICHARD TIBBETS, and KAY
TIBBETS,

Defendants.

DECISION AND ORDER

On July 9, 2019, Plaintiff Patricia Lee Rohring filed this disability discrimination claim, asserting claims for failure to accommodate and for retaliation under the American with Disabilities Act (“ADA”) and New York State Human Rights Law (“NYSHRL”). Dkt. 1. Presently before the Court is Judge Roemer’s¹ Report and Recommendation (“R&R”) addressing Defendants’ motion to dismiss the amended complaint.

For the reasons discussed below, this Court accepts the R&R. The motion to dismiss is granted in part and denied in part: Rohring’s retaliation claims are dismissed, and her failure-to-accommodate claims may proceed.

¹ Judge Vilardo was originally assigned to this case, but it was subsequently reassigned to Judge Sinatra. Dkt. 18. Judge Sinatra referred this case to United States Magistrate Judge Hugh B. Scott. Dkt. 22. The referral was subsequently transferred to United States Magistrate Judge Michael J. Roemer. Dkt. 32.

BACKGROUND

This Court assumes the parties' familiarity with the details of this case, outlined in Judge Roemer's R&R, and will provide only a brief summary of the relevant background.

Rohring previously was terminated by Pegasus in 2016 and returned to work at Pegasus in August 2017. Dkt. 10, at 5. At that time, Rohring requested several accommodations for her impairments, which include lumbar and cervical disc herniation, chronic lower back pain, bilateral foot pain, and anxiety disorder. Dkt. 26, at 1. Rohring's requests were ultimately denied. Dkt. 10, at 5-6; Dkt. 26, at 2-3. Rohring subsequently filed a discrimination charge with the EEOC and received a right-to-sue letter in April 2019. Dkt. 10, at 6-8.

Rohring, acting *pro se*, filed this disability action on July 8, 2019. Dkt. 1. On October 4, 2019, the Court granted Rohring's motion to proceed *in forma pauperis*. Dkt. 3. Pursuant to 28 U.S.C. § 1915, the Court also screened the complaint and determined that Rohring's claims against Pegasus could proceed, but the claims against the individual defendants would be dismissed unless Rohring filed an amended complaint. *Id.* at 1-2.

Rohring filed an amended complaint on December 2, 2019. *See* Dkt. 10. Shortly after, Defendants moved to dismiss the amended complaint under Rule 12(b)(6) or for a more definite statement under Rule 12(e). *See generally* Dkt. 13.

On January 31, 2020, Rohring moved for appointment of counsel (Dkt. 19),

which Judge Scott granted on May 13, 2020. Dkt. 23. Judge Scott also granted the motion for a more definite statement. *Id.*

No longer proceeding *pro se*, Rohring subsequently filed a supplemental statement to her amended complaint on August 7, 2020. Dkt. 26. Defendants again moved to dismiss on September 4, 2020. Dkt. 28. Rohring responded on September 28, 2020, and Defendants replied on October 16, 2020. *See* Dkts. 30, 31.

On March 19, 2021, Judge Roemer issued an R&R recommending Defendants' motion be granted in part and denied in part. *See generally* Dkt. 33. In sum, Judge Roemer recommended that Rohring's retaliation claims be dismissed but the failure-to-accommodate be allowed to proceed. *Id.* at 4. The parties did not object to the R&R, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

DISCUSSION

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Based on this Court's review and the absence of any objections, the Court accepts Judge Roemer's recommendations. The motion to dismiss (Dkt. 28) is


granted as to Rohring's retaliation claims and denied as to Rohring's failure-to-accommodate claims.

CONCLUSION

For the reasons stated above and in the R&R, Defendants' motion to dismiss (Dkt. 28) is GRANTED in part and DENIED in part. The case is referred back to Judge Roemer for further proceedings consistent with the referral order of March 13, 2020 (Dkt. 22).

SO ORDERED.

Dated: April 22, 2021
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE