

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

DMITRI SIMONS,

Plaintiff,

v.

**COSTCO WHOLESALE
CORPORATION,**

Defendant.

Case No. 3:18-cv-00755-SB

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Stacie F. Beckerman issued Findings and Recommendation in this case on December 6, 2018. ECF 23. Magistrate Judge Beckerman recommended that Defendant's Motion to Dismiss be GRANTED. Specifically, Magistrate Judge Beckerman recommended that Plaintiff's retaliation claims, which Plaintiff stated that he wished to dismiss, be dismissed with prejudice, and Plaintiff's race discrimination claims be dismissed without prejudice. No party has filed objections.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

PAGE 1 – ORDER

If no party objects, the Act does not prescribe any standard of review. See *Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review de novo magistrate judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] sua sponte . . . under a de novo or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Magistrate Judge Beckerman’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court **ADOPTS** Magistrate Judge Beckerman’s Findings and Recommendation, ECF 23. Plaintiff’s retaliation claims are dismissed with prejudice and Plaintiff’s race discrimination claims are dismissed without prejudice. Plaintiff may file an amended complaint within thirty (30) days of this Order.

IT IS SO ORDERED.

DATED this 18th day of January, 2019.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge