

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Cheryl Belton,)	C/A No.: 0:16-3347-TLW
)	
Plaintiff,)	
)	
v.)	
)	ORDER
West Marine, Inc.,)	
)	
Defendant.)	
_____)	

Plaintiff Cheryl Belton, proceeding pro se, brought this action alleging defamation against her former employer Defendant West Marine, Inc.¹ ECF No. 1-1. This matter is presently before the Court for review of the Report and Recommendation (R&R) filed by U.S. Magistrate Judge Hodges, to whom this case was assigned pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2), DSC. ECF No. 18. In the R&R, the Magistrate Judge recommends granting Defendant’s motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). ECF No. 4. Plaintiff filed objections to the R&R and Defendant filed a reply. ECF Nos. 20, 21. This matter is now ripe for review.

In reviewing the R&R, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections.... The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to

¹ This claim arises from the court filings made by Defendant in support of its motion for summary judgment in a prior pro se employment discrimination action Plaintiff brought against her former employer, captioned Belton v. West Marine, Inc., C/A No. 0:15-167-TLW-SVH (“Belton I”).

those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Hous. Auth. of City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in Wallace, the Court has carefully reviewed the R&R, the objections filed by Plaintiff, and the record in this case.² Plaintiff's objections essentially reassert arguments raised in her opposition to Defendant's motion to dismiss, and echo the arguments she asserted in the Belton I case. The Court has reviewed the allegedly defamatory statements asserted in the Complaint, ECF No. 1-1 at 4-6, and finds that these statements were relevant to Defendant's position in the Belton I case, which was also before this Court as noted above. The objections do not change the Magistrate Judge's conclusion that Defendant has immunity from Plaintiff's defamation claim based on these statements under applicable South Carolina law. Therefore, Plaintiff's objections are overruled and the R&R is accepted. For the reasons articulated by the Magistrate Judge, Defendant's motion to dismiss is granted and this case is hereby dismissed.

IT IS SO ORDERED.

s/Terry L. Wooten
Chief United States District Judge

April 13, 2017
Columbia, South Carolina

² Plaintiff filed additional documents and objections after the time to object to the R&R had expired and after Defendant had filed its reply. ECF Nos. 22, 23, 25, 26 (and attachments). Out of an abundance of caution, the Court reviewed these untimely submissions and notes they do not impact the analysis in this case.