

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Domingo Tellez,)	Civil Action No. 2:18-313-BHH
)	
Plaintiff,)	
)	ORDER AND OPINION
v.)	
)	
Primetals Technologies USA, LLC,)	
)	
Defendant.)	
_____)	

This matter is before the Court upon Plaintiff's amended complaint alleging that his former employer, Primetals Technologies USA, LLC, discriminated against him in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et. seq.*, and the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, *et seq.* (Am. Compl., ECF No. 21.) In accordance with 28 U.S.C. § 636(b)(1)(A) and Local Civil Rule 73.02(B)(2)(g), D.S.C., the matter was referred to a United States Magistrate Judge for preliminary determinations. On October 16, 2018, Magistrate Judge Bristow Marchant issued a Report and Recommendation ("Report") outlining the issues and recommending that the Court deny Defendant's motion to dismiss Plaintiff's third cause action for FLSA retaliation. Attached to the Magistrate Judge's Report was a notice advising the parties of their right to file written objections to the Report within fourteen days of being served with a copy. To date, no objections have been filed.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or

modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Here, because no objections have been filed, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. After review, the Court finds no error and agrees with the Magistrate Judge’s determination that Defendant’s motion to dismiss Plaintiff’s third cause of action (ECF No. 23) should be denied. Accordingly, the Court adopts and incorporates the Magistrate Judge’s Report (ECF No. 32). Defendant’s motion to dismiss Plaintiff’s Third Cause of Action for FLSA retaliation (ECF No. 23) is DENIED.

IT IS SO ORDERED.

/s/Bruce H. Hendricks
United States District Judge

November 1, 2018
Charleston, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.