

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

Labrisca Promise Evans,

Plaintiff,

v.

CareAlliance Health Services,

Defendant.

Civil Action No. 2:18-708-BHH

ORDER AND OPINION

This matter is before the Court upon Plaintiff's complaint alleging that her former employer, Defendant CareAlliance Health Services, discriminated against her in violation of the Americans with Disabilities Act and Title VII of the Civil Rights Act of 1964, as amended, and violated the Family and Medical Leave Act. 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 July 16, 2018, Magistrate Judge Kevin F. McDonald issued a report and recommendation ("Report") outlining the issues and recommending that the Court dismiss this action *without prejudice* for failure to timely serve Defendant with the summons and complaint. Attached to the Magistrate Judge's Report was a notice advising Plaintiff of his 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 clear error and agrees with the Magistrate Judge’s determination that this action should be dismissed without prejudice based on Plaintiff’s failure to timely serve Defendant with the summons and complaint. Therefore, the Court adopts and incorporates the Magistrate Judge’s Report (ECF No. 21) and dismisses this action *without prejudice*.

IT IS SO ORDERED.

/s/Bruce H. Hendricks
The Honorable Bruce Howe Hendricks
United States District Judge

August 16, 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.