

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Thomas E. Perez, Secretary of Labor,
United States Department of Labor,

Plaintiff,

vs.

Staples Contract and Commercial Inc.,
and Staples Inc.,

Defendants.

C/A No. 3:13-cv-01775-JFA

ORDER

This matter comes before the court on a motion to dismiss filed by Defendant Staples Contract and Commercial Inc. (“Staples Contract”) ECF No. 6. Specifically, Staples Contract has sought to dismiss Plaintiff’s complaint for failure to state a claim pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Plaintiff brought this action under Section 107(b)(2) of the Family Medical Leave Act of 1993. ECF No. 1.

While this matter was before the Magistrate Judge assigned to this action,¹ Plaintiff filed an amended complaint. ECF No. 12. This prompted the Magistrate Judge to issue a Report and Recommendation (“Report”) in which she suggests finding moot Staples Contract’s motion to dismiss. ECF No. 15. The Magistrate Judge opines that Staples Contract directed its motion to dismiss at the original complaint, which has been superseded by Plaintiff’s amended complaint.

¹ The Magistrate Judge’s review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(g) (D.S.C.). The Magistrate Judge makes only a recommendation to this 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 of those portions of the Report and Recommendation to which specific objection is 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. *See* 28 U.S.C. § 636(b)(1).

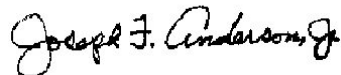
The Report sets forth in detail the relevant facts and standards of law on this matter, and this court incorporates those facts and standards without a recitation.

Plaintiff was advised of his right to object to the Report, which was entered on the docket on September 20, 2013. However, Plaintiff did not file objections. In the absence of specific objections to the Report of the Magistrate Judge, this court is not required to give an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

After carefully reviewing the applicable laws, the record in this case, as well as the Report, this court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. Accordingly, the court adopts the Report, rendering moot the motion to dismiss filed by Staples Contract.

IT IS SO ORDERED.

October 7, 2013
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge