

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

| | | |
|-------------------------------|---|-------------------------------------|
| Eric Williams, |) | Civil Action No.: 7:11-3497-MGL-KFM |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | ORDER AND OPINION |
| |) | |
| Röchling Automotive USA, LLP, |) | |
| |) | |
| Defendant. |) | |
| |) | |
| _____ |) | |

Plaintiff Eric Williams filed this action against Defendant alleging claims for violation of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 1201, *et seq.* and interference with rights under the Employee Retirement Income Security Act of 1974 (“ERISA”) in his amended complaint. (ECF No. 15.)

Defendant filed a Motion to Dismiss Plaintiff’s Second Cause of Action concerning Plaintiff’s ERISA claim on February 24, 2012. (ECF No. 22.) Plaintiff filed his response on March 12, 2012 (ECF No. 25) and Defendant filed a reply on March 22, 2012 (ECF No. 27). In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 D.S.C., this pretrial employment discrimination matter was referred to United States Magistrate Judge Kevin F. McDonald for consideration. The Magistrate Judge has prepared a thorough Report and Recommendation and suggests that Defendant’s Motion to Dismiss be denied. The Report and Recommendation sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The court is charged with making a *de novo* determination of any portion of the Report and

Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b). 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.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

The Magistrate Judge has recommended that Defendant's Motion to Dismiss (ECF No. 22) be denied. Defendant has filed no objections to the Report and Recommendation and the time for doing so has expired.

After reviewing the motion, the record, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore, it is ORDERED that Defendant's Motion to Dismiss is DENIED. This action is recommitted to the Magistrate Judge for further pretrial handling.

IT IS SO ORDERED.

s/ Mary G. Lewis
United States District Judge

Spartanburg, South Carolina
August 27, 2012