

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ARNULFO HERNANDEZ,

Plaintiff,

v.

WILSONART LLC,

Defendant.

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CIVIL NO. SA-17-CV-00897-JKP-HJB

ORDER ACCEPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Before the Court is Magistrate Judge Henry Bemporad’s Report and Recommendation filed on July 31, 2019, and the parties’ objections to the report. (Doc. Nos. 44, 47,48). Magistrate Judge Bemporad recommended Defendant’s Motion for Summary Judgment (Doc. No. 21) be granted in part as to Plaintiff’s hostile work environment claim and denied in part as to Plaintiff’s age discrimination and retaliation claims.

This Court shall make a *de novo* review of those portions of any Report and Recommendation to which any party objects. 28 U.S.C. § 636(b)(1)(C); *See also Longmire v. Guste*, 921 F.2d 620, 623 (5th Cir.1991). In conducting a *de novo* review, the Court will examine the record pertinent to the objections and must conduct its own analysis of the applicable facts and make an independent assessment of the law. The Court is not required to give any deference to the magistrate judge’s findings. *See United States v. Raddatz*, 447 U.S. 667, 689 (1980) (Stewart, J., dissenting) (“The phrase ‘de novo determination’ has an accepted meaning in the law. It means an independent determination of a controversy that accords no deference to any prior resolution of the same controversy.”); *Shiimi v. Asherton Indep. Sch. Dist.*, 983 F.2d 233, 1993 WL 4732, at

*3 n. 18 (5th Cir. Jan. 8, 1993). The Court will not conduct a *de novo* review pertaining to any objections that are frivolous, conclusive or general in nature. See *Battle v. United States Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).


This Court conducted a *de novo* review of the parties' objections to the Report and Recommendation and carefully reviewed the record pertinent to those objections. At this time, genuine issues of material fact exist which preclude summary judgment as to Plaintiff's age discrimination and retaliation claims. Summary Judgment is warranted as to Plaintiff's hostile work environment claim.

Accordingly, this Court ACCEPTS and ADOPTS Magistrate Judge Bemporad's Report and Recommendation in its entirety.

It is ORDERED Defendant's Motion for Summary Judgment (Doc. No. 21) be GRANTED IN PART such that Plaintiff's hostile work environment claim is DISMISSED, and Defendant's Motion for Summary Judgment is DENIED IN PART as to Plaintiff's age discrimination claim and retaliation claim.

IT IS SO ORDERED.

SIGNED this 1st day of October 2019.



JASON PULLIAM
UNITED STATES DISTRICT JUDGE