
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

KRISTINA ZEMAITIENE, an individual,

Plaintiff,

v.

CORPORATION OF THE PRESIDING
BISHOP OF THE CHURCH OF JESUS
CHRIST OF LATTER-DAY SAINTS, a
Utah corporation doing business as
DESERET INDUSTRIES; and MELANIE
PERRY, an individual;

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 2:16-cv-1271

Chief Judge Robert J. Shelby

Magistrate Judge Evelyn J. Furse

The undersigned referred this case to Magistrate Judge Evelyn J. Furse pursuant to 28 U.S.C. § 636(b)(1)(B).¹ On June 14, 2019, Judge Furse issued a Report and Recommendation² concerning Plaintiff Kristina Zemaitiene’s Motion for Leave to File a Second Amended Complaint.³ Judge Furse recommends the court deny Plaintiff’s Motion for two reasons.⁴ First, Judge Furse recommends this court find Plaintiff’s “proposed constructive discharge claim futile because she failed to timely exhaust her administrative remedies with respect to the claim.”⁵ Second, Judge Furse recommends this court find Plaintiff’s “request to

¹ Dkt. 4.

² Dkt. 63.

³ Dkt. 40.

⁴ See Dkt. 63.

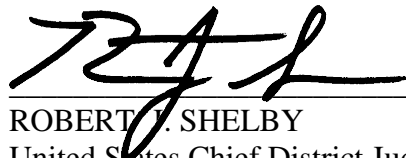
⁵ *Id.* at 14.

include additional supplemental facts underlying her gender discrimination claim as untimely because she knew or reasonably should have known of the facts at the commencement of this action nearly three years ago and did not seek to include the facts when granted leave to amend her Complaint.”⁶ Neither party objects to Judge Furse’s Report and Recommendation, so the court reviews the Report and Recommendation for clear error.⁷

Having carefully considered Judge Furse’s Report and Recommendation, the court finds no clear error. The court therefore ADOPTS Judge Furse’s Report and Recommendation.⁸ Plaintiff’s Motion for Leave to File a Second Amended Complaint⁹ is DENIED.

SO ORDERED this 15th day of July, 2019.

BY THE COURT:



ROBERT J. SHELBY
United States Chief District Judge

⁶ *Id.*

⁷ See Fed. R. Civ. P. 72(b) advisory committee’s note (1983) (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citing *Campbell v. U.S. Dist. Court for N. Dist. of Cal.*, 501 F.2d 196, 206 (9th Cir. 1974), *cert. denied*, 419 U.S. 879); see also *Summers v. State of Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (“In the absence of timely objection, the district court may review a magistrate's report under any standard it deems appropriate.”).

⁸ Dkt. 63.

⁹ Dkt. 40.