

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

ORDER
08-CV-706

STERLING JEWELERS, INC.,

Defendant.

This case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1), on November 26, 2008. On November 25, 2008, defendant filed a motion to dismiss that portion of the claims of plaintiff which seek relief for discrimination occurring prior to July 22, 2004. On October 1, 2009, Magistrate Judge McCarthy filed an Amended Report and Recommendation, recommending that defendant's motion be denied. Plaintiff filed objections to the Amended Report and Recommendation on October 14, 2009. Oral argument on the objections was held on December 14, 2009.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Amended Report and Recommendation to which objections have been made. Upon a de novo review of the Amended Report and Recommendation, and after reviewing the submissions and hearing

argument from the parties, the Court adopts the proposed findings of the Amended Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge McCarthy's Amended Report and Recommendation, defendant's motion to dismiss is denied. The case is referred back to Magistrate Judge McCarthy for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: January 6 , 2010