

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Newport News Division

ROGER A. HERNDON,

Plaintiff,

v.

Case No. 4:19cv52

HUNTINGTON INGALLS INDUSTRIES,  
INC. AND THE HII ADMINISTRATIVE  
COMMITTEE,

Defendants.

ORDER

Huntington Ingalls Industries, Inc. ("HII") and the Administrative Committee (the "Committee") (collectively, the "Defendants") filed a Motion for Summary Judgment and corresponding Memorandum in Support, ECF Nos. 53, 54. Plaintiff filed an Opposition, ECF No. 64, and Declaration re Opposition to Defendants' Motion for Summary Judgment, ECF No. 65. Defendants filed a Reply, ECF No. 77, and Plaintiff filed a Response thereto, ECF No. 84.

Plaintiff filed a Motion to Exclude Expert Testimony of Thomas S. Terry, and Memorandum in Support, ECF Nos. 61, 62. Defendants filed an Opposition, ECF No. 85, and Plaintiff filed a Reply, ECF No. 93.

Defendants filed a Motion to Exclude the Opinions of Plaintiff's Expert, Mitchell I. Serota, and Memorandum in Support, ECF Nos. 78, 79. Plaintiff filed an Opposition, ECF No. 86, and Defendants filed their Reply, ECF No. 92.

On March 4, 2020, this matter was referred to United States Magistrate Judge Douglas E. Miller pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b), to conduct necessary hearings, including evidentiary hearings, if necessary, and to submit to the undersigned district judge proposed findings of fact, if applicable, and recommendations for the disposition of the Motion for Summary Judgment. ECF No. 81. A Motion hearing was held on July 24, 2020. ECF No. 103.

The Magistrate Judge filed the Report and Recommendation ("R&R") on August 28, 2020. ECF No. 106. The R&R recommends denying the parties' competing Motions to Exclude, ECF No. 61, 78; and denying Defendants' Motion for Summary Judgment, ECF No. 53.


Defendants filed Objections to the R&R on September 11, 2020, to which the Plaintiff responded on September 25, 2020. ECF Nos. 108, 112.

The court, having reviewed the record in its entirety and having examined the Objections and made de novo findings with respect thereto, does **ADOPT AND APPROVE IN FULL** the findings and recommendations set forth in the thorough and well-reasoned R&R of the United States Magistrate Judge, filed on August 28, 2020, ECF No. 106. Accordingly, the Defendants' Motion for Summary Judgment, ECF No. 53, is **DENIED**. Plaintiff's Motion to Exclude Expert Testimony of Thomas S. Terry, ECF No. 61, is **DENIED**.

Defendants' Motion to Exclude the Opinions of Plaintiff's Expert, Mitchell I. Serota, ECF No. 78, is **DENIED**.

The Clerk is **DIRECTED** to send a copy of this Order to counsel for all parties.

**IT IS SO ORDERED.**

/s/  
Rebecca Beach Smith  
Senior United States District Judge 

REBECCA BEACH SMITH  
SENIOR UNITED STATES DISTRICT JUDGE

September 29, 2020