

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:11cv229**

ANN WHITE,)	
)	
Plaintiff,)	
)	
Vs.)	
)	
CONCERTA URGENT CARE,)	
)	
Defendant.)	
)	

**MEMORANDUM
OF DECISION**

THIS MATTER is before the court on the defendant’s Motion to Dismiss (#5) and the Memorandum and Recommendation (#8) of Honorable David C. Keesler, United States Magistrate Judge, regarding the disposition of such motion.

Pursuant to 28, United States Code, Section 636(b), Judge Keesler was designated to consider this pending motion and to submit to this court a recommendation for the disposition of such motion. On July 19, Judge Keesler entered the Memorandum and Recommendation containing proposed conclusions of law in support of his recommendation concerning such motion. The parties were advised that any objections to the Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. Review of the court’s docket reveals that plaintiff received a copy of the Memorandum and Recommendation on July 20, 2011. See Docket Entry #9. The period for filing objections ran not later than August 5, 2011, and no objections to the Memorandum and Recommendation have been filed by either party.

After careful review of Judge Keesler's well reasoned Memorandum and Recommendation, the court finds that the proposed conclusions of law are fully consistent with current case law. Accordingly, the court will accept Judge Keesler's recommendation that defendant's Motion to Dismiss be granted.

ORDER

IT IS, THEREFORE, ORDERED that the Memorandum and Recommendation (#8) of Judge Keesler is **ACCEPTED**, defendant's Motion to Dismiss (#5) is **GRANTED**, and this action is **DISMISSED** with prejudice in its entirety.

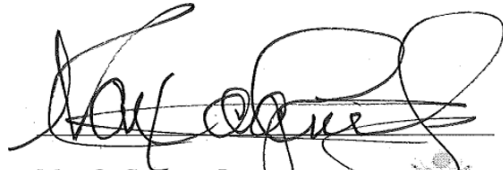
A judgment consistent with this Memorandum and Decision shall be entered by the Clerk of Court simultaneously herewith.

Advice of Appellate Rights

In accordance with Wilder v. Chairman of the Central Classification Bd., 926 F.2d 367, 371 (4th Cir.)("while not mandated, the preferable practice is to include a statement to all final orders involving *pro se* litigants setting forth the litigants' appellate rights"), cert. denied, 502 U.S. 832 (1991), plaintiff is hereby advised of the right to appeal this decision to the Court of Appeals of the Fourth Circuit in the manner described in Rule 3, Federal Rules of Appellate Procedure, by filing a Notice of Appeal with the Clerk of this Court within the time prescribed in Rule 4, Federal Rules of Appellate Procedure, which is **30 days**

from entry of this Order. Failure to file a Notice of Appeal within the first 30-day period after entry of judgment requires the filing of a motion for extension of time and a notice of appeal within the second 30-day period after entry of judgment. Fed. R. App. P. 4(a)(5). See United States ex rel. Leonard v. O'Leary, 788 F.2d 1238, 1240 (7th Cir. 1986).

Signed: August 8, 2011



Max O. Cogburn Jr.
United States District Judge