

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION

KIMBERLY THOMAS,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	1:13cv128-MHT
)	(WO)
DOLGENCORP, LLC,)	
)	
Defendant.)	

OPINION

Plaintiff Kimberly Thomas filed this lawsuit asserting that defendant Dolgencorp, LLC, discriminated against her on the basis of disability in violation of the Americans with Disabilities Act, 42 U.S.C. § 12112(a); on the basis of her gender in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a)(1); and on the basis of her taking approved medical leave, in violation of the Family and Medical Leave Act of 1993, 29 U.S.C.A. § 2615(a). After United States District Judge Mark Fuller granted summary judgment on all claims for Dolgencorp, Thomas filed a motion to alter, amend, or vacate the judgment.

This lawsuit is now before the court on the recommendation of the United States Magistrate Judge that Thomas's motion be denied. Also before the court are Thomas's objections to the recommendation. After an independent and de novo review of the record, the court concludes that the objections should be overruled and the magistrate judge's recommendation adopted.

The court adds these comments. Thomas has simply not shown that the reasons given by Dolgencorp are pretextual. Admittedly, with her objections, Thomas seems to be arguing mixed-motive, but this argument was not put forward originally in this case nor in the motion itself; also she has not made any effort to show that such an approach is allowed under the FMLA to afford relief.

An appropriate order will be entered.

DONE, this the 27th day of July, 2015.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE