

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

RONNIE McCLAIN,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 2:08cv614-WHA
	)	
COCA-COLA COMPANY DISTRIBUTOR,	)	(WO)
	)	
Defendant.	)	

**ORDER**

This case is before the court on the Report and Recommendation of the Magistrate Judge (Doc. #58), entered on June 16, 2009, the Plaintiff’s Motion for Objection to Magistrate Judge Finding and Recommendation (Doc. #59), filed on July 1, 2009, and Defendant’s Motion to Strike (Doc. #60), filed on September 15, 2009.

The Report and Recommendation ordered that any objections must be filed on or before June 29, 2009, and advised that failure to file written objections by that time would bar the party from a *de novo* determination by the district court of issues covered in the Report. The Plaintiff’s objection was not filed until July 1, 2009, and was, therefore, untimely.<sup>1</sup> Accordingly, it is hereby

ORDERED that Defendant’s Motion to Strike (Doc. #60) is GRANTED, and the Plaintiff’s objection is STRICKEN as untimely.

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<sup>1</sup> The envelope containing the objection was postmarked June 29, 2009, but mailing by a non-prisoner does not constitute filing. *See Rule 5(d)(2), Fed. R.Civ.P.*

Alternatively, the court has conducted a *de novo* review of this matter and finds that the objection is not well-taken and is due to be overruled. Therefore, the court adopts the Recommendation of the Magistrate Judge, and it is hereby ORDERED as follows:

1. The Defendant's Motion to Strike Motion for Summary Judgment of Ronnie McClain Pro Se (Doc. #56) is GRANTED in part and DENIED in part, and the Motion for Summary Judgment of Ronnie McClain Pro Se and supporting documentation are STRICKEN as to the portions pertaining to Plaintiff's request for summary judgment and responding to Defendant's Motion for Summary Judgment.

2. The Motion for Summary Judgment of Roddy Coca-Cola Bottling Company d/b/a Montgomery Coca-Cola Bottling Company (Doc. #33) is GRANTED.

3. Montgomery Coca-Cola Bottling Company's Motion for Sanctions (Doc. #45) is DENIED.

4. Any other outstanding motions are DENIED as moot.

5. Final Judgment will be entered accordingly.

DONE this 16th day September, 2009.

/s/ W. Harold Albritton

W. HAROLD ALBRITTON

SENIOR UNITED STATES DISTRICT JUDGE