

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

MICHAEL ARMSTRONG,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:09-CV-139-WKW
)	
JOHN CUMMINS, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

On July 20, 2009, the Magistrate Judge filed a Recommendation in this case. (Recommendation (Doc. # 24).) In response to the Recommendation, Plaintiff Michael Armstrong filed a Motion to Dismiss, or in the Alternative, Motion for Judgment on the Pleadings (Doc. # 27), which is construed as objections to the Recommendation. The portions of the recommendation to which a party objects are reviewed *de novo*. 28 U.S.C. § 636(b)(1).

A *de novo* review of the record and law confirms that the Recommendation should be adopted. Accordingly, it is ORDERED that:

- (1) Armstrong’s objections (Doc. # 27) are OVERRULED;
- (2) The Recommendation (Doc. # 24) is ADOPTED;
- (3) Defendants’ Motion to Dismiss, or in the Alternative, Motion for Judgment on the Pleadings (Doc. # 19) is GRANTED in part and DENIED in part. It is GRANTED to the extent that all of the claims are dismissed but denied in that some of the claims are dismissed without prejudice and Armstrong is granted leave to amend his complaint;

