

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

DEBRA SKANES,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:15-CV-134-WKW
)	[WO]
FEDEX GROUND PACKAGE)	
SYSTEM, INC.,)	
)	
Defendant.)	

ORDER

On September 9, 2016, the Magistrate Judge filed a Recommendation that this court grant Defendant’s motion for summary judgment on Plaintiff’s remaining claim brought under the Carmack Amendment, 49 U.S.C. § 14706. (Doc. # 42.) Plaintiff filed a timely objection to the Recommendation. (Doc. # 43.) Based upon a *de novo* review of those portions of the Recommendation to which objection is made, *see* 28 U.S.C. § 636(b), the court finds that the objection is due to be overruled and that the Recommendation is due to be adopted.

The crux of Plaintiff’s argument is that the Magistrate Judge erred by allowing Defendant a second opportunity to argue its motion for summary judgment. But there was no error. Previously, adopting a prior Recommendation of the Magistrate Judge, this court granted Defendant’s motion for summary judgment on Plaintiff’s state-law claims, finding that the Carmack Amendment preempted those claims, and

referred this action to the Magistrate Judge for a recommended disposition of Defendant's motion for summary judgment on the Carmack Amendment claim. (*See* Doc. # 38 (Order); *see also* Doc. # 37 (Recommendation).) Contrary to Plaintiff's suggestion, the prior Order did not find that Defendant had violated the Carmack Amendment or that Plaintiff was entitled to judgment in her favor. (Doc. # 43, at 1.) Rather, the prior Order deferred a ruling on Defendant's motion for summary judgment based on the Recommendation's proper invocation of Federal Rule of Civil Procedure 56(e)(1).¹

In turn, in the pending Recommendation, the Magistrate Judge correctly concludes that Plaintiff's renewed opposition to Defendant's supplementation lacks merit and that Plaintiff's failure to file a timely claim with Defendant forecloses her Carmack Amendment claim. In short, Plaintiff has failed to show that the pending Recommendation contains any errors in its procedural or substantive rulings.

Accordingly, it is ORDERED as follows:

- (1) Plaintiff's objection (Doc. # 43) is OVERRULED;
- (2) The Recommendation (Doc. # 42) is ADOPTED; and

¹ The Order permitted Defendant to submit a copy of the ground tariff in effect at the time of Plaintiff's shipment in order to show that Plaintiff's failure to file a timely claim for damages with Defendant barred her from bringing suit under the Carmack Amendment. The Order also gave Plaintiff an opportunity to respond to Defendant's submission. (Doc. # 39.) To the extent that Plaintiff objects to the prior Recommendation, which the Order adopted, that objection is untimely and, alternatively, lacks merit.

(3) Defendant's motion for summary judgment (Doc. # 31) is GRANTED on Plaintiff's Carmack Amendment claim.

A final judgment will be entered separately.

DONE this 28th day of September, 2016.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE