

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

CHRISTOPHER JARVIS,)	
)	
Plaintiff/Counterclaim)	
Defendant,)	
)	
v.)	CASE NO. 2:17-CV-396-WKW
)	
T. BRITT TAYLOR, <i>et al.</i> ,)	
)	
Defendants/)	
Counterclaimants.)	

ORDER

On February 12, 2018, the Magistrate Judge filed a Recommendation to which no timely objections have been filed. (Doc. # 27.) Upon an independent review of the record and upon consideration of the Recommendation, it is ORDERED that the Recommendation (Doc. # 27) is ADOPTED. Accordingly, it is ORDERED as follows:

1. Counterclaim Defendant Christopher Jarvis’s motion to dismiss (Doc. # 13) is GRANTED IN PART as to (1) Counterclaimants’ breach of loyalty¹ claim (Count VI), which is dismissed with prejudice, and (2) Counterclaimant’s

¹ In response to the motion to dismiss, Counterclaimants did not cite Ala. Code 1975 § 10A-5A-4.08, which pertains to the duty of loyalty a “person who has the authority to direct and oversee the activities and affairs of a limited liability company owes to the limited liability company and to the members of the limited liability company.” Ala. Code 1975 § 10A-5A-4.08(a)(1). Neither did they demonstrate that § 10A-5A-4.08 is applicable to Count VI and the facts alleged in the counterclaim complaint; nor did they argue that Alabama law recognizes an independent claim for breach of the duty of loyalty in derogation of § 10A-5A-4.08.

negligence claim (Count V), which is dismissed without prejudice. In all other respects, Counterclaim Defendant Christopher Jarvis's motion to dismiss (Doc. # 13) is DENIED.

2. This action is referred back to the Magistrate Judge for additional proceedings.

DONE this 17th day of April, 2018.

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