

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

CHARLES W. STEWART,)
)
 Plaintiff,)
)
 v.)
)
 ARGOS READY MIX, LLC,)
 et al.,)
)
 Defendants.)

CIVIL ACTION NO.
3:16cv356-MHT
(WO)

OPINION

Plaintiff Charles W. Stewart filed this lawsuit asserting federal claims under the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., and the Family Medical Leave Act, 29 U.S.C. § 2601, et seq., as well as claims under state law. This lawsuit is now before the court on the recommendation of the United States Magistrate Judge that defendants' motion to strike should be denied and defendants' motion to dismiss should be granted in part and denied in part. Also before the court are defendant Ronnee J. Pedersen's objections to the recommendation. After an

independent and de novo review of the record, the court concludes that Pedersen's objections should be overruled and the magistrate judge's recommendation adopted. *

An appropriate judgment will be entered.

DONE, this the 14th day of December, 2016.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE

* In the objection, Pedersen argues that the recommendation errs because Stewart failed to sufficiently plead facts concerning 'the benefit' Pedersen obtained as a consequence of her alleged misrepresentations to Stewart. However, Pedersen did not raise the insufficiency of Stewart's complaint regarding this element in the motion to dismiss or in the reply to Stewart's opposition to the motion to dismiss. Accordingly, the argument was not properly raised, and will not be considered at this time.