

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**MICHAEL STANLEY,** )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
**CITY OF CLAY, ALABAMA,** )  
 )  
 Defendant. )

Civil Action Number  
**2:12-CV-374-JEO**

**ORDER**

The action is now before the court on the motion of defendant City of Clay, Alabama, to dismiss the complaint and amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). (Doc. 5). The magistrate judgment assigned to this case filed a Report and Recommendation, recommending that the motion is due to be granted as to Counts Two and Three, and denied as to Counts One, Four, and Five and that plaintiff should be allowed to file a Second Amended Complaint. (Doc. 9). Neither party has filed any objections to the Report and Recommendation within the time prescribed.

After carefully considering the materials in the court file and conducting a *de novo* review of the motion, the court is of the opinion that the magistrate judge's report is due to be and hereby is **ADOPTED** and the recommendation is **ACCEPTED**. Accordingly, Counts Two and Three are **DISMISSED** with prejudice.

**DONE** this the 14th day of June, 2012.

A handwritten signature in black ink, appearing to read "V. Emerson Hopkins", written in a cursive style.

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**VIRGINIA EMERSON HOPKINS**

United States District Judge