

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

WILLIAM C. MILES, SR.,)	
Plaintiff,)	
)	
v.)	Case No.: 4:19-cv-00756-CLM
)	
WAL MART ASSOCIATES, INC.)	
WAL MART STORES EAST, LP)	
Defendants.)	

MEMORANDUM OPINION

Plaintiff William Miles alleges three counts in his complaint. Doc. 1 at 6-10. Defendant Wal Mart has moved the court for summary judgment on all three counts. Docs. 21 (motion); 23 (brief in support).

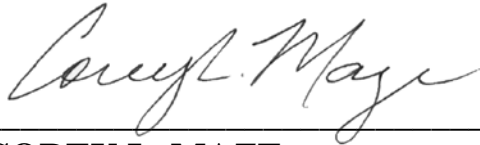
In his brief in opposition, Miles “voluntary dismisses Counts II and III of his Complaint without prejudice.” Doc. 27 at 4, n.1. The court construes this as a motion for voluntary dismissal under Rule 41(a), which the court grants in a separate order.

That leaves Count 1, which alleges that Wal Mart fired Miles because of a disability (*i.e.* a shoulder injury). Wal Mart argues that Miles cannot establish a prima facie case of discrimination. *See* Doc. 23 at 11-13. But the court agrees with Miles that the parties dispute genuine issues of material fact that would prove a prima facie case. *See* Doc. 27 at 24-37. Because the parties have a genuine dispute over the prima facie case, Count 1 must be decided by a jury.

So the court will **deny** Wal Mart's motion for summary judgment as to Count 1 and **dismiss as moot** Wal Mart's motion as to Counts 2 and 3 (because the court grants Miles's motion to voluntarily dismiss those counts). The court will enter separate orders for each ruling.

The parties should be ready to discuss trial dates and the pending pretrial motions during the September 22, 2020 status conference. Once a trial date is selected, the court will enter an order lifting the stay (doc. 38) and setting this case for trial in Anniston.

DONE on September 21, 2020.

A handwritten signature in cursive script that reads "Corey L. Maze". The signature is written in black ink and is positioned above a horizontal line.

COREY L. MAZE
UNITED STATES DISTRICT JUDGE