

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No. 14-cv-01066-REB-NYW

JAMES VAUGHN,

Plaintiff,

v.

SAFEWAY, INC.,

Defendant.

ORDER DENYING MOTIONS FOR SUMMARY JUDGMENT

Blackburn, J.

This matter is before me on the following: (1) **Safeway's Motion for Summary Judgment and Supporting Brief** [#95]¹, filed April 14, 2015; (2) the **Amended Motion for Partial Summary Judgment on Liability as Against Defendant, Safeway, Inc.** [#101] filed April 24, 2015; and (3) the related **Recommendation of United States Magistrate Judge** [#129] filed September 14, 2015. The plaintiff, James Vaughn, filed a response [#105] to the motion for summary judgment of the defendant, Safeway, Inc., and Safeway filed a reply [#110]. The recommendation [#129] addresses only the motion for partial summary judgment [#101] of Mr. Vaughn. Mr. Vaughn filed objections [#130] to the recommendation, and Safeway filed a response [#135] to the objections. I approve and adopt the recommendation and deny both motions for summary judgment.

¹ "[#95]" is an example of the convention I use to refer to the docket number assigned in CM/ECF to a motion or order, and will be used throughout this Order.

I have jurisdiction over this case under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1367 (supplemental).

As required by 28 U.S.C. § 636(b), I have reviewed *de novo* all portions of the recommendation to which the plaintiff objects. I have considered carefully the recommendation, the objections, the response to the objections, the other filings in this case, and the applicable case law. In the recommendation the magistrate judge provides a thorough description of relevant evidence, arguments, and legal standards. Properly, the magistrate judge concludes that the motion for partial summary judgment [#101] of Mr. Vaughn should be denied because there remain genuine disputes as to material facts.

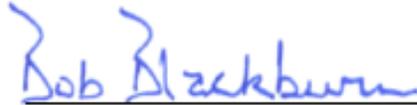
The motion for summary judgment [#95] of Safeway addresses many of the same issues as the motion for partial summary judgment of Mr. Vaughn. I have reviewed the motions for summary judgment, the responses, the replies, and the apposite arguments, authorities, and evidence presented by the parties. It is apparent that there exist genuine disputes as to material facts that are not appropriate for summary resolution. For example, there is evidence in the record showing the nature of the medical restrictions faced by Mr. Vaughn when he was placed on unpaid medical leave and the nature of the medical restrictions faced by Mr. Vaughn when he was permitted to return to work. The effect those restrictions had on the ability of Mr. Vaughn to perform the essential duties of his job at various points in time and the motivations of Safeway decision makers when making the employment decisions at issue in this case present genuine disputes as to material facts. The existence of these and other genuine disputes as to material facts make it improper to grant the motion for summary judgment [#95] of Safeway.

THEREFORE, IT IS ORDERED as follows:

1. That **Safeway's Motion for Summary Judgment and Supporting Brief** [#95], filed April 14, 2015, is denied;
2. That the **Recommendation of United States Magistrate Judge** [#129] filed September 14, 2015, is approved and adopted as an order of this court; and
3. That the **Amended Motion for Partial Summary Judgment on Liability as Against Defendant, Safeway, Inc.** [#101] filed April 24, 2015, is denied.

Dated November 9, 2015, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge