

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

BRENDA ELAINE MITCHELL,

Plaintiff,

vs.

Case No.: 3:15cv529/MCR/EMT

**FIRST TRANSIT, INC.
d/b/a ESCAMBIA COUNTY AREA TRANSIT,**

Defendant.

ORDER

This cause comes before the Court on consideration of the Magistrate Judge's Report and Recommendation dated April 24, 2017 (ECF No. 39). The parties have been furnished a copy of the Report and Recommendation and have been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). The Court has made a *de novo* determination of any timely filed objections.

Having considered the Report and Recommendation, the Court has determined that the Report and Recommendation should be adopted.

Accordingly, it is now **ORDERED** as follows:

1. That Defendant's motion to partially dismiss the Amended Complaint (ECF No. 23) be **GRANTED**;
2. That Plaintiff's claims of discrimination based upon color (independent of race), age, and non-union status be **DISMISSED without prejudice** for failure to exhaust administrative remedies; and
3. That Plaintiff's failure to promote claims be **DISMISSED without prejudice** for failure to exhaust administrative remedies.

DONE AND ORDERED this 10th day of May 2017.

M. Casey Rodgers

M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE