

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

WAYNE WESLEY,

Plaintiff,

v.

NATIONAL MENTOR  
HEALTHCARE, LLC  
doing business as  
Georgia Mentor,

Defendant.

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CIVIL ACTION FILE  
NO. 1:09-CV-978-TWT

ORDER

This is an employment discrimination action. It is before the Court on the Report and Recommendation [Doc. 16] of the Magistrate Judge recommending denying the Defendant's Motion to Dismiss [Doc. 5] treated as a Motion for Summary Judgment. The Court approves and adopts the Report and Recommendation as the judgment of the Court. The Defendant's Motion to Dismiss [Doc. 5] is DENIED. However, the Court expressly reserves ruling on the Defendant's claim of judicial estoppel in the event that the bankruptcy trustee abandons the action or recovers any sum in excess of that required to repay the Plaintiff's debts.

SO ORDERED, this 8 day of February, 2010.

/s/Thomas W. Thrash  
THOMAS W. THRASH, JR.  
United States District Judge