

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

VICTORIA MESSINA,)	
)	
Plaintiff,)	Case No. 2:17-cv-00274-KJD-CWH
)	
vs.)	<u>REPORT AND RECOMMENDATION</u>
)	
ALBERTSON'S LLC,)	
)	
Defendant.)	

Presently before the court is Plaintiff Victoria Messina's motion for summary judgment (ECF No. 21), filed on September 12, 2017. Defendant Albertson's LLC has not yet filed a response.

Albertson's recently moved to withdraw its deemed admissions under Rule 36(b) of the Federal Rules of Civil Procedure due to an issue with service of Messina's requests for admissions. (Mot. to Withdraw Deemed Admissions (ECF No. 19).) Messina opposed the motion, and filed a counter motion for summary judgment based on Albertson's failure to respond to the requests for admissions, arguing that the failure to respond to the requests for admissions left no material fact undisputed. (Resp. & Countermot. (ECF Nos. 20, 21).) At the hearing held on September 26, 2017, the court granted Albertson's motion to withdraw its deemed admissions. (Mins. of Proceedings (ECF No. 28).) Thus, it appears to the court that Messina's motion for summary judgment is moot.


The court therefore recommends that Messina's motion for summary judgment (ECF No. 21) be denied as moot.

NOTICE

This report and recommendation is submitted to the United States district judge assigned to this case under 28 U.S.C. § 636(b)(1). A party who objects to this report and recommendation may

1 file a written objection supported by points and authorities within fourteen days of being served
2 with this report and recommendation. Local Rule IB 3-2(a). Failure to file a timely objection may
3 waive the right to appeal the district court's order. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir.
4 1991).

5
6 DATED: September 28, 2017

7 
8

C.W. Hoffman, Jr.
9 United States Magistrate Judge
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28