

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**ANDREW COLTON,**

Plaintiff,

v.

**WALMART, INC. et al.,**

Defendants.

No. 3:20-cv-01895-JR

OPINION AND ORDER

**MOSMAN, J.,**

On April 7, 2021, Magistrate Judge Jolie A. Russo issued her Findings and Recommendation (F. & R.) [ECF 36]. Judge Russo recommended that I grant in part and deny in part Defendants' Motion to Dismiss [ECF 21] and deny as moot Defendants' Motion to Strike [ECF 31]. Neither party filed objections. Upon review, I agree with Judge Russo.

**DISCUSSION**

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of

the magistrate judge as to those portions of the F. & R. to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F. & R. depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F. & R. 28 U.S.C. § 636(b)(1)(C).

### CONCLUSION

Upon review, I agree with Judge Russo's findings and recommendation, and I ADOPT the F. & R. [ECF 36] as my own opinion. I GRANT Defendants' Motion to Dismiss and DISMISS without prejudice Plaintiff's first, second, third, fourth, and sixth claims. I DENY as moot Defendants' Motion to Strike [ECF 31].

IT IS SO ORDERED.

DATED this 19<sup>th</sup> day of May, 2021.

  
MICHAEL W. MOSMAN  
United States District Judge