IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA

BRIAN REED,)	C/A No. 2:11-679 DCN BM
)	
Plaintiff,)	
)	
VS.)	ORDER
)	
WINWOOD FARM HOME FOR CHILDREN,)	
INC.; SUE SHANKLE; and DEBORAH)	
MCKELVEY,)	
)	
Defendants.)	

The above referenced case is before this court upon the magistrate judge's recommendation that defendants' Motion to Dismiss Plaintiff's First Cause of Action, asserting a claim under the Americans with Disabilities Act, be denied, and the remainder of the request relief in defendants' motion be deemed moot.

This court is charged with conducting a <u>de novo</u> review of any portion of the magistrate judge's report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636(b)(1). However, absent prompt objection by a dissatisfied party, it appears that Congress did not intend for the district court to review the factual and legal conclusions of the magistrate judge. <u>Thomas</u> <u>v Arn</u>, 474 U.S. 140 (1985). Additionally, any party who fails to file timely, written objections to the magistrate judge's report pursuant to 28 U.S.C. § 636(b)(1) waives the right to raise those objections at the appellate court level. <u>United States v. Schronce</u>, 727 F.2d 91 (4th Cir. 1984),

<u>cert.</u> <u>denied</u>, 467 U.S. 1208 (1984).¹ Objections to the magistrate judge's report and recommendation were timely filed on June 20, 2011.

A <u>de novo</u> review of the record indicates that the magistrate judge's report accurately summarizes this case and the applicable law. Accordingly, the magistrate judge's report and recommendation is **AFFIRMED**, defendants' Motion to Dismiss Plaintiff's First Cause of Action, asserting a claim under the American with Disabilities Act, is **DENIED**, and the remainder of the requested relief in defendants' motion is **MOOT**.

AND IT IS SO ORDERED.

David C. Norton Chief United States District Judge

Charleston, South Carolina July 20, 2011

<u>NOTICE OF RIGHT TO APPEAL</u>

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure

¹In <u>Wright v. Collins</u>, 766 F.2d 841 (4th Cir. 1985), the court held "that a <u>pro se</u> litigant must receive fair notification of the <u>consequences</u> of failure to object to a magistrate judge's report before such a procedural default will result in waiver of the right to appeal. The notice must be 'sufficiently understandable to one in appellant's circumstances fairly to appraise him of what is required." <u>Id.</u> at 846. Plaintiff was advised in a clear manner that his objections had to be filed within ten (10) days, and he received notice of the <u>consequences</u> at the appellate level of his failure to object to the magistrate judge's report.