

**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF TEXAS**

CITY OF PORT ARTHUR,

Plaintiff,

*versus*

DAIMLER BUSES NORTH CAROLINA,  
INC.,

Defendant.

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CIVIL ACTION NO. 1:15-CV-186

**ORDER ON REPORT AND RECOMMENDATION**

Pending before the court is United States Magistrate Judge Keith F. Giblin’s Report and Recommendation (#43) on Defendant Daimler Buses North Carolina, Inc.’s (“Daimler”) Rule 12(b)(6) Motion to Dismiss Plaintiff City of Port Arthur’s Third Amended Complaint (#37). United States District Judge Thad Heartfield referred this matter to Judge Giblin for consideration and recommended disposition of case-dispositive pretrial motions (#3).<sup>1</sup> On August 7, 2017, Judge Giblin issued the instant report and recommendation, in which he recommended that the court deny Daimler’s motion in its entirety. No objections have been filed, and the time for the parties to do so has expired. *See* 28 U.S.C. § 636(b)(1). Having considered the magistrate judge’s findings, the record, the pleadings, and the applicable law in this proceeding, the court is of the opinion that Judge Giblin’s findings should be adopted.

Therefore, the court ADOPTS Judge Giblin’s Report and Recommendation (#43) in its entirety. The court further ORDERS that the instant motion (#37) is DENIED for the reasons set out in Judge Giblin’s Report and Recommendation.

<sup>1</sup> On November 28, 2016, Judge Heartfield recused himself from the above-styled action (#28).

SIGNED at Plano, Texas, this 7th day of September, 2017.

*Marcia A. Crone*

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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE