
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

JOSEPH CASTELLANO,
Plaintiff,

v.

BRIGHAM YOUNG UNIVERSITY,
DAVID TUELLER, and SCOTT ELKINS
Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 2:16-cv-01205-JNP-EJF

District Judge Jill N. Parrish
Magistrate Judge Evelyn J. Furse

Pro se Plaintiff Joseph Castellano brings this lawsuit in against Defendants Brigham Young University (“BYU”), David Tueller, and Scott Elkins, seeking damages and injunctive relief for alleged violations of the Americans with Disabilities Act of 1990 and the Utah Antidiscrimination Act of 1965. (Docket No. 3). The court referred this matter to Magistrate Judge Evelyn J. Furse pursuant to 28 U.S.C. § 636(b)(1)(B). (Docket No. 6). On January 30, 2017, Defendants BYU and David Tueller filed a Motion to Dismiss for Failure to State a Claim. (Docket No. 7). Plaintiff filed a Motion for Default Judgment as to all Defendants on February 21, 2017. (Docket No. 10). The parties filed various responses and replies to each motion. (Docket Nos. 11, 12, 13, 14).

After review of the parties’ briefing, Judge Furse issued a Report and Recommendation advising this court to grant the Motion to Dismiss, (Docket No. 16), and a second Report and Recommendation advising this court to deny the Motion for Default Judgment, (Docket No. 17). Each report specified that the parties were to file any objections with the court within fourteen

(14) days of service. The time to object has now expired and the court has received no objections.

Based on the court's *de novo* review of the record, the relevant legal authorities, and each Report and Recommendation, the court concludes that each Report and Recommendation is a correct application of the law and the facts. Accordingly, the court ORDERS as follows:

1. The first Report and Recommendation (Docket No. 16) is ADOPTED IN FULL.
2. The second Report and Recommendation (Docket No. 17) is ADOPTED IN FULL.
3. Mr. Castellano's Motion for Default Judgement (Docket No. 10) is DENIED.
4. Defendants BYU and David Tueller's Motion to Dismiss (Docket No. 7) is GRANTED.
5. Mr. Castellano's Complaint (Docket No. 3) is DISMISSED without prejudice for failure to state a claim.
6. Mr. Castellano is GRANTED thirty (30) days from the issuance of this order to amend his complaint. Should his newly amended complaint fail to cure the deficiencies outlined by Judge Furse, his action may be dismissed with prejudice.

SO ORDERED this 25th day of August, 2017.

BY THE COURT:



JILL N. PARRISH
United States District Judge