

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

AT HUNTINGTON

JOHN W. RANDOLPH,

Plaintiff,

V.

CIVIL ACTION NO. 3:09-1095

FELMAN PRODUCTION, INC.,

Defendant.

**FINDINGS AND RECOMMENDATION**

This action, for wages allegedly owed during sick leave, was filed by the pro se plaintiff against his employer, Felman Production, Inc., in Magistrate Court in Mason County and removed to this Court by defendant under the provisions of 28 U.S.C. § 1441. Plaintiff has now filed a motion to dismiss stating that defendant has “settled with me to my satisfaction.”

**RECOMMENDATION**

Perceiving no basis for denying plaintiff’s motion to dismiss, it is, therefore, **RESPECTFULLY RECOMMENDED** that the motion be granted and this action dismissed, without prejudice.

Plaintiff and defendant are hereby notified that a copy of these Findings and Recommendation will be submitted to the Honorable Robert C. Chambers, United States District Judge, and that, in accordance with the provisions of Rule 72(b), Federal Rules of Civil Procedure,

the parties may, within thirteen days of the date of filing of these Findings and Recommendation, serve and file written objections with the Clerk of this Court identifying the specific portions of the Findings and Recommendation to which objection is made and the basis for such objection. The judge will make a de novo determination of those portions of the Findings and Recommendation to which objection is made in accordance with the provisions of 28 U.S.C. § 636(b) and the parties are advised that failure to file timely objections will result in a waiver of their right to appeal from a judgment of the district court based on such Findings and Recommendation. Copies of objections shall be served on all parties with copies of the same to Judge Chambers and this Magistrate Judge.

The Clerk is directed to file these Findings and Recommendation and to mail a copy of the same to plaintiff and all counsel of record.

DATED: November 16, 2009

  
MAURICE G. TAYLOR, JR.  
UNITED STATES MAGISTRATE JUDGE