

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ROBERT MERCOGLAN,

Plaintiff,

v.

Case No: 2:18-cv-209-FtM-38MRM

CHARLOTTE COUNTY BOARD OF
COUNTY COMMISSIONERS,

Defendant.

_____ /

OPINION AND ORDER¹

Before the Court is United States Magistrate Judge Mac R. McCoy's Amended Report and Recommendation. (Doc. 36). Judge McCoy recommends granting Plaintiff Robert Mercoglan's Motion to Sever and for Partial Remand of Count I of the Amended Complaint. No party objects to the Report and Recommendation, and the time to do so has expired. (Doc. 37). The Report and Recommendation is thus ripe for review.

A district judge "may accept, reject, or modify in whole or in part, the findings or recommendations made by the magistrate judge." [28 U.S.C. § 636\(b\)\(1\)](#). The district judge "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* And "[t]he judge

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may also receive further evidenced or recommit the matter to the magistrate judge with instructions.” *Id.*

After examining the file carefully and independently, and upon considering Judge McCoy’s findings and recommendations, the Court accepts and adopts the Report and Recommendation.

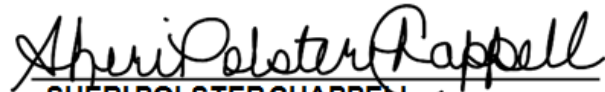
Accordingly, it is now

ORDERED:

- (1) United States Magistrate Judge Mac R. McCoy’s Amended Report and Recommendation (Doc. 36) is **ACCEPTED and ADOPTED** and the findings incorporated herein.
- (2) Plaintiff Robert Mercoglan’s Motion to Sever and for Partial Remand of Count I of Amended Complaint (Doc. 33) is **GRANTED**.
 - a. Count I of the Amended Complaint, which alleges retaliation under Fla. Stat. § 440.205, is **SEVERED** and **REMANDED** to the Circuit Court of the Twentieth Judicial Circuit in and for Charlotte County, Florida.
 - b. Mercoglan is **DIRECTED** to file a Second Amended Complaint that omits the retaliation claim on or before **August 25, 2018**.
 - c. Defendant Charlotte County Board of County Commissioners is **DIRECTED** to file an answer to the Second Amended Complaint on or before **August 29, 2018**.
- (3) The Clerk of Court is **DIRECTED** to transmit a certified copy of this Order to the Clerk of the Circuit Court of the Twentieth Judicial Circuit in and for Charlotte County, Florida.

(4) The Report and Recommendation (Doc. 35) is **DENIED as moot**.

DONE and **ORDERED** in Fort Myers, Florida this 22nd day of August 2018.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record