

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

MELVIN LEWIS SEALEY,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:15-CV-837-WKW
)	
BRANCH BANKING AND)	
TRUST CO.,)	
)	
Defendant.)	

ORDER

On August 22, 2016, the Magistrate Judge filed a Recommendation (Doc. # 25) to which Plaintiff timely filed objections (Docs. # 26.) On September 19, 2016, Defendant filed a response in opposition to Plaintiff’s objections. (Doc. # 30.) The court has conducted an independent and *de novo* review of those portions of the Recommendation to which objections are made, *see* 28 U.S.C. § 636(b)(1). In the Recommendation, the Magistrate Judge determined that Plaintiff’s claims are barred by *res judicata* and Rule 41. (Doc. # 25, at 14.) To the extent that Plaintiff’s objections address Rule 41 and *res judicata*, they are without merit.

Plaintiff also filed a document he titled “Motion to Vacate Magistrate Orders and Recommendation” with an accompanying brief in support. (Docs. # 27, 28.) The court construes these documents as supplemental objections to the Recommendation. In these documents, Plaintiff asserts that he never consented to

proceed before the Magistrate Judge. Pursuant to 28 U.S.C. § 636, a district judge may “designate a magistrate judge” to make determinations or recommendations about pretrial matters as appropriate. The section does not require consent of the parties for referral of pretrial matters. *See* 28 U.S.C. § 636(b). Therefore, these objections are without merit.

Accordingly, it is ORDERED that:

- (1) Plaintiff’s objections (Doc. # 26, 27) are OVERRULED;
 - (2) The Recommendation (Doc. # 25) is ADOPTED;
 - (3) Defendant’s Motion to Dismiss (Doc. # 5) is GRANTED;
 - (4) Defendant’s alternative Motion for a More Definite Statement (Doc. # 5) and Motion for Partial Summary Judgment (Doc. # 7) are DENIED as moot;
- and
- (5) This case is DISMISSED with prejudice.

A separate final judgment will be entered.

DONE this 26th day of September, 2016.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE