

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**TAMI HARRISON,**

**Plaintiff,**

v.

**FACEBOOK, INC.,**

**Defendant.**

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**CIV. ACT. NO. 1:18-cv-147-TFM-MU**

**MEMORANDUM OPINION AND ORDER**

On January 17, 2019, the Magistrate Judge entered a Report and Recommendation (Doc. 28) which recommends that Defendant’s Motion to Dismiss (Doc. 21) be granted. Plaintiff Tami Harrison (“Harrison” or “Plaintiff”) timely filed objections (Doc. 29) to which Defendant Facebook, Inc. (“Facebook” or “Defendant”) filed its response (Doc. 30).

After due and proper consideration of all portions of this file deemed relevant to the issues raised, and a *de novo* determination of those portions of the Recommendation to which objection is made, the Report and Recommendation of the Magistrate Judge (Doc. 28) is **ADOPTED** as the opinion of this Court.

**I. BACKGROUND**

On June 15, 2018, Facebook filed its Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(2) and 12(b)(6). *See* Docs. 21-22. Alternatively, Facebook moved for a transfer to the United States District Court for the Northern District of California. *Id.* Plaintiff timely responded in opposition to the motion to dismiss. *See* Doc. 24. Facebook timely replied to Plaintiff’s opposition. *See* Doc. 25.

On January 17, 2019, the Magistrate Judge issued his Report and Recommendation

(“R&R”) wherein he addresses the Motion to Dismiss under Fed. R. Civ. P. 12(b)(2). In the R&R, the Magistrate Judge concludes that the Court does not have personal jurisdiction over Facebook and recommends Facebook’s motion to dismiss be granted and Plaintiff’s action dismissed without prejudice. The R&R does not address the Motion to Dismiss under Fed. R. Civ. P. 12(b)(6) or the alternative request to transfer to the Northern District of California.

Plaintiff’s objection to the R&R was filed on January 29, 2019. *See* Doc. 29. In the objection, Harrison objects to dismissal but states she “moves the Court to transfer this case to avoid dismissal to the preferred venue and authority of Judge if venue is improper here as stated in reports and recommendations.” *Id.* at 1. Plaintiff further states she “would like a transfer issued if the new venue doesn’t have a level of congestion of the respective courts, dockets and the speed with which the dispute can be resolved in an efficient and cost effective manner.” *Id.* Defendant filed its response to Plaintiff’s objection, now argues against transfer, and urges the Court to reject Plaintiff’s request for transfer.

## **II. DISCUSSION AND ANALYSIS**

The Court notes that had Plaintiff consented to transfer in response to the Motion to Dismiss, it may have been more well-received. But, Plaintiff only consented to transfer after the R&R was filed with its finding that the Court lacked personal jurisdiction. Ultimately, the Magistrate Judge’s analysis is accurate and to the point. While the Court ultimately could dismiss or transfer with regard to the personal jurisdiction, the Court finds no basis to overrule the well-reasoned analysis of the Magistrate Judge under *either* a de novo or clearly erroneous standard. Further, transfer would still leave the Rule 12(b)(6) Motion to Dismiss pending for the California court’s determination. As such, the Court declines to transfer the case.

The Court notes that this dismissal is without prejudice and Plaintiff may refile her lawsuit

in the Northern District of California should she choose to do so. The Northern District of California provides ample resources for *pro se* plaintiffs to review before filing suit in their court. *See* <https://cand.uscourts.gov/Legal-Help-Center-Templates>. Should Plaintiff choose to refile in California, the Court would urge her to seek legal counsel and/or review the website above.

### III. CONCLUSION

For the reasons articulated above, it is **ORDERED** that:

- (1) Plaintiff's objections (Doc. 29) are **OVERRULED**;
- (2) The Report and Recommendation (Doc. 28) is **ADOPTED**;
- (3) Defendant's Motion to Dismiss (Doc. 21) is **GRANTED in part and DENIED in part**;
  - a. The Motion to Dismiss (Doc. 21) is **GRANTED** as to the request for dismissal under Fed. R. Civ. P. 12(b)(2).
  - b. The Motion to Dismiss (Doc 21) and Alternative Request for Transfer (Doc. 21) are **DENIED as moot**.
- (4) This action is **DISMISSED without prejudice**.

Final judgment shall issue separately in accordance with this order and Federal Rule of Civil Procedure 58.

**DONE and ORDERED** this the 8th day of March 2019.

/s/Terry F. Moorer  
TERRY F. MOORER  
UNITED STATES DISTRICT JUDGE