

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION**

PEARLIE LYONS,

Plaintiff,

v.

Case No: 2:08-cv-76-UA-DNF

THOMAS J. KENDER, Vice  
President and Controller,  
NATIONAL EXPRESS GROUP,

Defendant.

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**ORDER**

**THIS CAUSE** came on for consideration upon the Report and Recommendation entered by United States Magistrate Judge Douglas N. Frazier on June 4, 2009, at docket 33, on the Defendant's Motion to Dismiss Plaintiff's Complaint (Dkt. 25). The Court notes that neither party has filed written objections to the Report and Recommendation and the time for filing such objections has expired.

After careful consideration of the Report and Recommendation of the Magistrate Judge, in conjunction with an independent examination of the court file, the Court is of the opinion that the Magistrate Judge's Report and Recommendation should be adopted, confirmed, and approved in all respects and made a part of this order for all purposes.

**ACCORDINGLY**, it is therefore, **ORDERED AND ADJUDGED**:

1) The Report and Recommendation of the Magistrate Judge is adopted, confirmed, and approved in all respects and is made a part of this order for all purposes, including appellate review.

2) Plaintiff has failed to allege that she was an employee, that the Defendant was her employer, and that she exhausted her administrative remedies. The Court, therefore, determines that the Plaintiff has failed to state a claim upon which relief may be granted.

3) Defendant's Motion to Dismiss (Dkt. 25) is **granted**, and Plaintiff's complaint is dismissed without prejudice.

4) Plaintiff shall file an amended complaint on or before **July 3, 2009**, failing which this Court will dismiss this case with prejudice. Defendant shall file a response to Plaintiff's amended complaint within ten (10) days of service.

**DONE AND ORDERED** in Tampa, Florida, on June 19, 2009.

*s/Richard A. Lazzara*  
**RICHARD A. LAZZARA**  
**UNITED STATES DISTRICT JUDGE**

**COPIES FURNISHED TO:**  
Magistrate Judge Douglas N. Frazier  
Counsel of Record  
Pro se Plaintiff