

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

SANTIAGO MANUEL A.,  
individually and on behalf  
of SA,

Plaintiff,

v.

Case No: 2:13-cv-781-FtM-29CM

DALE JAMISON, BRIAN BOTTS,  
Dr., School Principal  
(Edison Collegiate High  
School), EDISON STATE  
COLLEGE, Lee Campus, and  
SCHOOL BOARD OF LEE COUNTY,

Defendants.

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**OPINION AND ORDER**

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #205), filed October 30, 2015, recommending that plaintiff's Motion Requesting Leave to File Amended Complaint and to File Supplemental Pleading (Doc. #179) be denied. Plaintiff filed Objections to Magistrate Judge's Report and Recommendations (Doc. #209) on November 5, 2015.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); United States v. Powell, 628 F.3d 1254, 1256 (11th Cir. 2010). A 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." 28 U.S.C. § 636(b)(1)(C). See also United States v. Farias-Gonzalez, 556 F.3d 1181, 1184 n.1 (11th Cir. 2009). This requires that the district judge "give fresh consideration to those issues to which specific objection has been made by a party." Jeffrey S. v. State Bd. of Educ. of Ga., 896 F.2d 507, 512 (11th Cir. 1990) (quoting H.R. 1609, 94th Cong., § 2 (1976)). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. See Cooper-Houston v. Southern Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994).

Plaintiff objects because discovery should be reopened, and because defendants have not shown prejudice since they failed to produce discovery. Plaintiff further objects that he did not file a proposed Third Amended Complaint for review because he was waiting for leave to be granted. After a careful and complete review of the findings and recommendations, as well as the record in this case, the Court accepts the Report and Recommendation of the Magistrate Judge. The motion was untimely when filed on August 26, 2015, as the deadline to amend pleadings had passed<sup>1</sup>, and because this case is currently set for the January 2016 trial term.<sup>2</sup> The Court has repeatedly addressed plaintiff's requests to

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<sup>1</sup> The deadline to amend pleadings expired on July 14, 2014. (Doc. #45.)

<sup>2</sup> The Court notes that plaintiff filed a Motion to Continue

compel and for sanctions, see Doc. #180, and plaintiff's request to reopen discovery has no bearing on the motion to amend. After a *de novo* review, the Court finds that the Motion failed to explain the basis to amend or how plaintiff would amend the pleading if provided the opportunity to amend, even if plaintiff had attached a proposed document for review. The Court will overrule the objections.

Accordingly, it is now

**ORDERED:**

1. The Report and Recommendation (Doc. #205) is hereby **ACCEPTED and ADOPTED** and the findings incorporated herein.
2. Plaintiff's Objections to Magistrate Judge's Report and Recommendations (Doc. #209) are **overruled**.
3. Plaintiff's Motion Requesting Leave to File Amended Complaint and to File Supplemental Pleading (Doc. #179) is **DENIED**.

**DONE and ORDERED** at Fort Myers, Florida, this 18th day of November, 2015.

  
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JOHN E. STEELE  
SENIOR UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record

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Trial (Doc. #219) on November 6, 2015.