

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

ABDULLAH M. AL-RAYES, et al.,

Plaintiffs,

-vs-

Case No. 3:15-cv-107-J-34JBT

ERIKA M. WILLINGHAM, et al.,

Defendants.

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ORDER

THIS CAUSE is before the Court on the Report and Recommendation (Doc. 79; Report), entered by the Honorable Joel B. Toomey, United States Magistrate Judge, on August 15, 2016. In the Report, Magistrate Judge Toomey recommends that Defendant Erika M. Willingham's ("Defendant") Motion to Dismiss Plaintiffs' Second Amended Complaint With Prejudice (Doc. 51; Motion), be granted in part and denied in part. See Report at 14. On August 31, 2016, Plaintiffs filed objections to the Report. See Plaintiffs' Limited Objections to the Honorable Joel B. Toomey, U.S.M.J.'s August 15, 2016 Report and Recommendation (Doc. 87; Objections). Defendant responded on September 14, 2016, with Defendant's Response in Opposition to Plaintiffs' Limited Objection to the Honorable Joel B. Toomey's August 16, 2016 Report and Recommendation (Doc. 89; Response).¹ Thus, the matter is ripe for review.

¹ On September 19, 2016, Plaintiffs filed a motion seeking to strike the Response from the court record. See Plaintiffs' Motion to Strike Defendant Erika M. Willingham's Response in Opposition to Plaintiffs' Limited Objection to the Honorable Joel B. Toomey's August 15, 2016 Report and Recommendation (Doc. 91; Motion to Strike). Although Defendant has not responded to the Motion to Strike, upon review, the Court determines that it is due to be denied.

The Court “may accept, reject, or modify, in whole or in part, the finding or recommendations by the magistrate judge.” 28 U.S.C. § 636(b). If no specific objections to findings of facts are filed, the district court is not required to conduct a de novo review of those findings. See Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993); see also 28 U.S.C. § 636(b)(1). However, the district court must review legal conclusions de novo. See Cooper-Houston v. Southern Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); United States v. Rice, No. 2:07-mc-8-FtM-29SPC, 2007 WL 1428615, at *1 (M.D. Fla. May 14, 2007).

Upon independent review of the file and for the reasons stated in the Magistrate Judge’s Report, the Court will overrule the Objections and accept and adopt the legal and factual conclusions recommended by the Magistrate Judge. As such, Plaintiffs’ Second Amended Complaint is due to be dismissed without prejudice, and Plaintiffs will be given an opportunity to file an amended complaint. Accordingly, it is hereby

ORDERED:

1. Plaintiffs’ Motion to Strike Defendant Erika M. Willingham’s Response in Opposition to Plaintiffs’ Limited Objection to the Honorable Joel B. Toomey’s August 15, 2016 Report and Recommendation (Doc. 91) is **DENIED**.
2. Plaintiffs’ Limited Objections to the Honorable Joel B. Toomey, U.S.M.J.’s August 15, 2016 Report and Recommendation (Doc. 87) are **OVERRULED**.
3. The Magistrate Judge’s Report and Recommendation (Doc. 79) is **ADOPTED** as the opinion of the Court.
4. Defendant’s Motion to Dismiss Plaintiffs’ Second Amended Complaint With Prejudice (Doc. 51) is **GRANTED in part** and **DENIED in part**.

5. The Motion is **GRANTED** to the extent that the Second Amended Complaint is **DISMISSED without prejudice**. Otherwise the Motion is **DENIED**.
6. Plaintiffs shall have up to and including **November 18, 2016**, to file an amended complaint consistent with the directives of the Court.

DONE AND ORDERED in Jacksonville, Florida, this 17th day of October, 2016.


MARCIA MORALES HOWARD
United States District Judge

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Copies to:

The Honorable Joel B. Toomey
United States Magistrate Judge

Counsel of Record