

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

GEORGE FERNANDEZ,

Plaintiff,

vs.

Case No. 5:16-cv-326-Oc-34PRL

CITY OF FRUITLAND PARK,

Defendant.

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**ORDER**

**THIS CAUSE** is before the Court on the Report and Recommendation (Dkt. No. 26; Report), entered by the Honorable Philip R. Lammens, United States Magistrate Judge, on December 6, 2016. In the Report, Judge Lammens recommends that Defendant's Motion to Dismiss Plaintiff's First Amended Complaint With Prejudice, or Alternatively, Motion to Strike With Memorandum of Law in Support (Dkt. No. 19) be denied as to Counts I - V and granted as to Count VI. See Report at 19. The parties have failed to file objections to the Report, and the time for doing so has now passed.

The Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made 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 accept and adopt the legal and factual conclusions recommended by the Magistrate Judge. Accordingly, it is hereby

**ORDERED:**

1. The Report and Recommendation (Dkt. No. 26) of Judge Lammens is **ADOPTED** as the opinion of the Court.

2. Defendant's Motion to Dismiss Plaintiff's First Amended Complaint With Prejudice, or Alternatively, Motion to Strike With Memorandum of Law in Support (Dkt. No. 19) is **GRANTED, in part, and DENIED, in part.**

A. The Motion is **GRANTED** to the extent that Count VI of the First Amended Complaint is **DISMISSED.**

B. Otherwise, the Motion is **DENIED.**

3. Defendant shall respond to the First Amended Complaint in accordance with the Federal Rules of Civil Procedure.

**DONE and ORDERED** in Chambers, this 23rd day of February, 2017.

  
MARCIA MORALES HOWARD  
United States District Judge

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Copies to:

Counsel of Record