

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

ISAAC A. POTTER, JR.,

Plaintiff,

v.

Case No: 6:15-cv-1250-Orl-41KRS

**LINCOLN HERITAGE LIFE
INSURANCE COMPANY, GERBER
LIFE INSURANCE COMPANY, LIFE
OF BOSTON INSURANCE COMPANY,
GERBER PRODUCTS COMPANY,
SHIRLEY GROSSMAN, LARRY
SCHUNEMAN, KORRI BEHLER,
ALAN STACHURA, NESTLE
HOLDING INC. and THE
CORPORATION TRUST COMPANY,**

Defendants.

ORDER

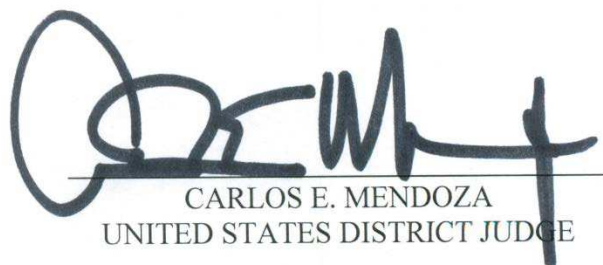
THIS CAUSE is before the Court on Plaintiff's Affidavit of Indigency (Doc. 10). United States Magistrate Judge Karla R. Spaulding submitted an Amended Report and Recommendation (Doc. 18), in which she recommends that the Affidavit of Indigency, construed as a motion to proceed *in forma pauperis*, be denied and Plaintiff's Amended Complaint be dismissed without leave to amend. (*Id.* at 7). Plaintiff filed an Amended Memorandum of Law Challenging the U.S. Court ("Amended Memorandum," Doc. 20), which this Court construes as an objection to the Report and Recommendation.

After a *de novo* review,¹ the Court agrees entirely with the findings of fact and conclusions of law in the Report and Recommendation. To the extent Plaintiff contends that the Court bears the burden of proving jurisdiction, this is a misstatement of the law. The party seeking subject-matter jurisdiction in federal court bears the burden of pleading the facts necessary to establish such jurisdiction. *McCormick v. Aderholt*, 293 F.3d 1254, 1257 (11th Cir. 2002) (“[T]he party invoking the court’s jurisdiction bears the burden of proving, by a preponderance of the evidence, facts supporting the existence of federal jurisdiction.”). Plaintiff has not alleged diversity of citizenship by a preponderance of the evidence, and thus, has not met his burden.

Therefore, it is **ORDERED** and **ADJUDGED** as follows:

1. The Amended Report and Recommendation (Doc. 18) is **ADOPTED** and **CONFIRMED** and made a part of this Order.
2. Plaintiff’s Amended Memorandum of Law Challenging the U.S. Court (Doc. 20) is **OVERRULED**.
3. Plaintiff’s Affidavit of Indigency (Doc. 10) is **DENIED without prejudice**.
4. The Amended Complaint (Doc. 8) is **DISMISSED without prejudice**.
5. The Clerk is directed to terminate all other pending motions and close this case.

DONE and **ORDERED** in Orlando, Florida on October 16, 2015.



CARLOS E. MENDOZA
UNITED STATES DISTRICT JUDGE

¹ The objected-to portions of the Report and Recommendation are reviewed *de novo*. 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3).

Copies furnished to:

Counsel of Record
Unrepresented Party