

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

JEROME L. GRIMES,

Plaintiff,

v.

Case No. 6:16-cv-308-Orl-37DAB

JOHN ERIKSEN; and MANHEIM
AUTOMOBILE AUCTIONS,

Defendants.

ORDER

This cause is before the Court on the following:

1. Plaintiff's Affidavit of Indigency (Doc. 11), filed March 16, 2016;
2. U.S. Magistrate Judge David A. Baker's Report and Recommendation (Doc. 12), filed March 18, 2016; and
3. Plaintiff's Objections to the March 16, 2016, Report and Recommendations (Doc. 13), filed March 28, 2016.

On March 18, 2016, Plaintiff filed an Affidavit of Indigency, thereby moving to proceed *in forma pauperis* in the instant action. (Doc. 11 ("**IFP Motion**").) Upon referral, U.S. Magistrate Judge David A. Baker issued a Report recommending that the Court: (1) deny Plaintiff's IFP Motion on the ground that his Amended Complaint is patently frivolous; and (2) dismiss Plaintiff's Amended Complaint with prejudice in light of Plaintiff's history of frivolous filings. (Doc. 12 ("**R&R**").) Plaintiff timely objected to the R&R (Doc. 13 ("**Objections**")) and contemporaneously filed a Second Amended Complaint (Doc. 14).¹

¹ As an initial matter, Plaintiff's Second Amended Complaint (Doc. 14) was filed

The matter is now ripe for the Court's consideration.

When a party objects to a magistrate judge's findings, the district court must "make a de novo determination of those portions of the report . . . to which objection is made." 28 U.S.C. § 636(b)(1). The district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.* The district court must consider the record and factual issues based on the record independent of the magistrate judge's report. *Ernest S. ex rel. Jeffrey S. v. State Bd. of Educ.*, 896 F.2d 507, 513 (11th Cir. 1990).

Having conducted an independent, de novo review, and upon consideration of the entire record and Plaintiff's Objections, the Court agrees with Magistrate Judge Baker's comprehensive, well-reasoned R&R. The Court finds that Plaintiff's Objections, like his Amended Complaint, are without merit and, therefore, due to be overruled. Plaintiff is warned that continued frivolous lawsuits may result in a screening order being placed on his future filings within this District.

Accordingly, it is hereby **ORDERED AND ADJUDGED**:

1. Plaintiff's Objections to the March 16, 2016, Report and Recommendations (Doc. 13) are **OVERRULED**.
2. U.S. Magistrate Judge David A. Baker's Report and Recommendation (Doc. 12) is **ADOPTED AND CONFIRMED** and made a part of this Order.
3. Plaintiff's Affidavit of Indigency (Doc. 11), which the Court construes as a motion to proceed *in forma pauperis*, is **DENIED**.
4. Plaintiff's Amended Complaint (Doc. 10) is **DISMISSED WITH**

without Court leave and is, therefore, due to be stricken. See Fed. R. Civ. P. 15(a).

PREJUDICE.

5. The Clerk is **DIRECTED** to **STRIKE** Plaintiff's Second Amended Complaint (Doc. 14) and **CLOSE** the file.

DONE AND ORDERED in Chambers in Orlando, Florida, on March 29, 2016.




ROY B. DALTON JR.
United States District Judge

Copies:

Counsel of Record