

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

MOR GERZON,

Plaintiff,

v.

Case No: 8:17-cv-870-T-27TBM

IHOP RESTAURANT CORPORATION,

Defendant.

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ORDER

BEFORE THE COURT is the Report and Recommendation (Dkt. 8) of the Magistrate Judge recommending that Plaintiff's request for leave to proceed *in forma pauperis* (Dkt. 2) be denied without prejudice, that Plaintiff's Complaint (Dkt. 1) be dismissed, but allow Plaintiff to file, within twenty days, an amended complaint, that the Motion for Appointment of Attorney (Dkt. 3) be denied, that the Motion to Seal Personal Information (Dkt. 4) be denied without prejudice, and that the Motion Requesting Statute of Limitation Extension (Dkt. 5) be denied. Plaintiff has not filed objections and the time in which to do so has passed.<sup>1</sup>

A district court may accept, reject or modify a magistrate judge's report and recommendation.

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<sup>1</sup> The docket reflects that the Report and Recommendation was mailed to *pro se* Plaintiff on April 19, 2017. The Notice of Designation (Dkt. 6) was mailed on April 14, 2017 and returned as undeliverable and unable to forward. The docket does not reflect that the Report and Recommendation was undeliverable. A party has a duty to keep the Court informed of his address. It is Plaintiff's responsibility to notify the Court of any change in his address. *See Lewis v. Conners Steel Co.*, 673 F.2d 1240 (11th Cir.1982) (stating that it is "fair and reasonable for [a party] to assume the burden of advising . . . of address changes or to take other reasonable steps to ensure delivery . . . to his current address."). There is nothing in the record reflecting any change in Plaintiff's address and the Report and Recommendation was not returned as undeliverable. In any event, the Magistrate Judge's legal conclusions have been reviewed *de novo* and are not wrong. Therefore, any failure to consider objections would be harmless. *See Braxton v. Estelle*, 641 F.2d 392, 397 (5th Cir. Unit A Apr. 1981) (*per curiam*) (holding that because "the district judge could assess the merits of the petition from its face," the district court's failure to review objections by the petitioner, who may have not received notice of the R&R, was harmless (quotation omitted)).

28 U.S.C. § 636(b)(1). In the absence of specific objections, there is no requirement that factual findings be reviewed *de novo*, and the court may accept, reject or modify, in whole or in part, the findings and recommendations. § 636(b)(1)(C); *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993). Legal conclusions are reviewed *de novo*, even in the absence of an objection. *See LeCroy v. McNeil*, 397 Fed. App'x. 554, 556 (11th Cir. 2010) (citing *United States v. Warren*, 687 F.2d 347, 348 (11th Cir. 1982)); *Cooper-Houston v. S. Ry. Co.*, 37 F.3d 603, 604 (11th Cir. 1994).

After careful consideration of the Report and Recommendation in conjunction with an independent examination of the file, the Court is of the opinion that the Report and Recommendation should be adopted, confirmed, and approved in all respects.

Accordingly, the Report and Recommendation (Dkt. 8) is **APPROVED** and **ADOPTED** as the opinion of the Court for all purposes, including for appellate review. Plaintiff's request to proceed *in forma pauperis* (Dkt. 2) is **DENIED without prejudice** and her Complaint (Dkt. 1) is **DISMISSED without prejudice**. Her Motion for Appointment of Attorney (Dkt. 3) is **DENIED**, her Motion to Seal Personal Information (Dkt. 4) is **DENIED without prejudice**, and her Motion Requesting Statute of Limitation Extension (Dkt. 5) is **DENIED**.

Plaintiff may file an amended complaint within **twenty (20) days**, which must be accompanied by either a renewed motion to proceed *in forma pauperis* or the filing fee. Failure to file an amended complaint will result in this case being dismissed without further notice.

**DONE AND ORDERED** this 9<sup>th</sup> day of May, 2017.

  
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**JAMES D. WHITTEMORE**  
United States District Judge

Copies to:  
Pro se Plaintiff