

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

ROB STAR, derivatively and on behalf
of all Nominal Defendants, Oldfield
Community Association, LLC and Oldfield
Club, LLC, and on behalf of Oldfield
Community Association LLC's and Oldfield
Club, LLC's respective members

Plaintiff,

vs.

TI OLDFIELD DEVELOPMENT, LLC,
TI OLDFIELD OPERATIONS, LLC,
by and through their respective board of
directors, John Does 1-10, individually and
as directors between the time period
2010-2017, including Philip Galbreath
and I. William Stolz, III; OLDFIELD
HOLDINGS GA, LLC; SF CAPITAL,
LLC; SF OPERATIONS, LLC; JAMIE D.
SELBY, individually and as managing
member of Elliot Group Holdings, LLC,
and ELLIOT GROUP HOLDINGS, LLC;
OLDFIELD COMMUNITY COUNCIL,
(2013-2015) including Jay Barr and
Richard Price, by and through its respective
Board of Directors, John Does 11-20;
OLDFIELD COMMUNITY
ASSOCIATION, (2010-2017) by and
through its respective Board of Directors,
John Does 31-40 including Richard Price,
Phillip Galreath, and I. William Stolz, III;
BALD EAGLE PARTNERS LLC; BEP
OLDFIELD, LLC, by and through their
respective Board of Directors (John Does
41-50); JAY BARR; RICHARD PRICE;
WILLIAM STOLZ, III; PHILLIP
GALBREATH; OLDFIELD
COMMUNITY ASSOCIATION, LLC;
OLDFIELD CLUB, LLC,

Defendants.

No. 9:17-cv-02489-DCN

ORDER

This matter is before the court upon the Special Master's report and recommendation ("R&R") that the court grant defendants' motions to dismiss, ECF Nos. 53, 54, 55, 56, 58, and 61, and that the court deny plaintiff's cross-motion to amend the complaint, ECF No. 65.

The court is charged with conducting a de novo review of any portion of the Special Master's report to which a specific objection is registered. "In acting on a master's order, report, or recommendations, the court must give the parties notice and an opportunity to be heard; may receive evidence; and may adopt or affirm, modify, wholly or partly reject or reverse, or resubmit" the R&R to the Special Master with instructions. Fed. R. Civ. P. 53(f)(1). The 2003 Advisory Committee Notes state that the "requirement that the court must afford an opportunity to be heard can be satisfied by taking written submissions when the court acts on the report without taking live testimony."¹

Plaintiff requests a hearing with this court to address his objections to the R&R. However, a party is not entitled to a hearing on his objections to a Special Master's R&R. Rather, he must be given "notice and an opportunity to be heard," which plaintiff has received through his opportunity to submit objections to the R&R. See Pac, Harbor Captial, Inc. v. Carnival Air Lines, Inc., 210 F.3d 1112, 1118 (9th Cir. 2000) (finding that Rule 53(f)(1) "does not require an oral or evidentiary hearing on the issues"). The court finds that a hearing is not necessary to decide upon plaintiff's objections to the R&R, and thus denies plaintiff's request for a hearing.

¹ While this language is drawn from the Committee Notes to Rule 53(g), in the 2003 version of the Federal Rules of Civil Procedure, Rule 53(g)(1) contained the substantive language that is now in Rule 53(f)(1).

The court has conducted a de novo review of the record, including plaintiff's objections to the R&R and the transcript from the Special Master's hearing on the motions. The court concludes that the Special Master's R&R accurately summarizes this case and the applicable law. Accordingly, the Special Master's R&R, ECF No. 96, is incorporated into this order. For the reasons articulated by the Special Master, the court **GRANTS** the defendants' motions to dismiss all of plaintiff's claims, rendering moot plaintiff's cross-motion to amend the complaint.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'D. Norton', written over a horizontal line.

DAVID C. NORTON
UNITED STATES DISTRICT JUDGE

September 19, 2018
Charleston, South Carolina