

# United States District Court

EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

LINTON J. GRIFFIN

§

V.

§

CIVIL ACTION NO. 4:23CV411

§

JUDGE MAZZANT/JUDGE JOHNSON

§

INOGEN

§

## MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On October 23, 2023, the Magistrate Judge entered a Report and Recommendation (Dkt. #10) that Defendant Inogen's Motion to Dismiss under Rule 12(b)(4) and (5) and Brief in Support (the "Motion") (Dkt. #5) be granted in part and denied in part.

Having received the Report of the United States Magistrate Judge, and no timely objections being filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court.

Accordingly, it is hereby **ORDERED** that the Motion (Dkt. #5) is **GRANTED IN PART** and **DENIED IN PART**. The Motion (Dkt. #5) is **GRANTED** to the extent it seeks to quash Plaintiff Linton J. Griffin's previous attempt at service and **DENIED** to the extent it seeks dismissal under Rules 12(b)(4) and 12(b)(5). Plaintiff shall have (30) days from the entry of this Memorandum Adopting Report and Recommendation to serve the summons and complaint upon Defendant in compliance with Rule 4 of the Federal Rules of Civil Procedure.

**IT IS SO ORDERED.**

**SIGNED this 13th day of November, 2023.**



AMOS L. MAZZANT  
UNITED STATES DISTRICT JUDGE