

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RODNEY DEWAYNE FORD,

Plaintiff,

v.

FITNESS INTERNATIONAL, LLC,
doing business as LA FITNESS,

Defendant.

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Civil Action No. **3:17-CV-1460-L**

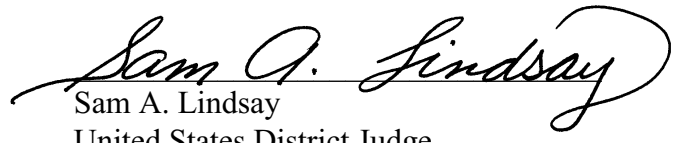
ORDER

On August 15, 2018, United States Magistrate Rebecca Rutherford entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”), recommending that the court grant in part Defendant’s Motion to Dismiss (Doc. 20), filed January 18, 2018; grant Defendant Fitness International, LLC’s Motion for No-Evidence Summary Judgment (Doc. 24), filed April 26, 2018, and dismiss with prejudice all of Plaintiff’s claims for alleged civil rights violations, brought pursuant to 42 U.S.C. § 1981; and alleged violations of the Federal Unfair Debt Collection Practices Act (“FDCPA”), the Telephone Consumer Protection Act (“TCPA”), the Texas Retail Installment Sales Act (“TRISA”), and the Texas Deceptive Trade Practices Act (“DTPA”). No response to Defendant’s motions or objections to the Report were filed by Plaintiff within the time for doing so.

Having reviewed the motions, pleadings, record in this case, applicable legal standards, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **grants** Defendant Fitness

International, LLC's Motion for No-Evidence Summary Judgment (Doc. 24) and, pursuant to Federal Rule of Civil Procedure 56(a),* **dismisses with prejudice** Plaintiff's section 1981, FDCPA, TCPA, TRISA, and DTPA claims. Instead of granting in part Defendant's Motion to Dismiss, as proposed by the magistrate judge, the court **denies as moot** the Motion to Dismiss (Doc. 20). As no further claims remain, the court will enter a judgment by separate document pursuant to Rule 58 of the Federal Rules of Civil Procedure.

It is so ordered this 13th day of September, 2018.


Sam A. Lindsay
United States District Judge

* As Plaintiff filed no response to the summary judgment motion, the court is permitted to accept Defendant's facts as undisputed. *Eversley v. Mbank Dallas*, 843 F.2d 172, 174 (5th Cir. 1988). Moreover, Plaintiff's unsworn pleadings do not constitute summary judgment evidence. *Bookman v. Schubzda*, 945 F. Supp. 999, 1002 (N.D. Tex. 1996) (citing *Solo Serve Corp. v. Westowne Assocs.*, 929 F.2d 160, 165 (5th Cir. 1991)).