
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

LINTON DALE LIVINGSTON,

Plaintiff,

v.

GEICO, and HERTZ RENTAL
COMPANY,

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 2:16-cv-00878-JNP-DBP

District Judge Jill N. Parrish
Magistrate Judge Dustin B. Pead

Pro se Plaintiff Linton Dale Livingston filed his complaint against Defendants on August 17, 2016. The court referred this matter to Magistrate Judge Dustin B. Pead pursuant to 28 U.S.C. § 636(b)(1)(B). Plaintiff filed a motion to amend his complaint on September 13, 2016, and attached a proposed amended complaint as an exhibit. On November 15, 2016, the court entered an order finding the motion to amend moot and noting that the complaint filed was missing a page. Federal Rule of Civil Procedure 4(m) requires a summons and the complaint to be served on the Defendants within 90 days after the complaint was filed. To date, 225 days have elapsed since Plaintiff filed his complaint and Plaintiff has not provided the court with proof of service, nor has he filed any motion regarding service of process.

On January 19, 2017, the court ordered Plaintiff to show cause why this action should not be dismissed for failure to prosecute. The court advised Plaintiff that failure to respond would result in dismissal of this case. To date, Plaintiff has not responded.¹

On February 14, 2017, Judge Pead filed a Report and Recommendation (Dkt. 9) recommending that the case be DISMISSED WITH PREJUDICE. Judge Pead's Report and Recommendation provided that any objection to his recommendation was to be filed with the court within fourteen days of service. The time to object has now expired and the court has received no objections to the Report and Recommendation.

Based on the court's *de novo* review of the record, the relevant legal authorities, and Judge Pead's Report and Recommendation, the court concludes that the Report and Recommendation is a correct application of the law and the facts. Accordingly, the court ORDERS as follows:

1. The Report and Recommendation (Dkt. 9) is ADOPTED IN FULL.
2. The case is DISMISSED WITHOUT PREJUDICE.
3. The Clerk of Court is directed to close the case.

SO ORDERED this 30th day of March, 2017.

BY THE COURT:



JILL N. PARRISH
United States District Judge

¹ Both the Order to Show Cause and the Report and Recommendation were filed electronically on the court's case management/electronic case filing system and were mailed to the address on file for Mr. Livingston. But both mailings were returned to the court as undeliverable. It appears that Mr. Livingston has failed to provide the court with his current mailing address.