

---

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF UTAH**

---

**ATHERTON,**

**Plaintiff,**

**v.**

**AMTRACK RAILROAD ET AL.,**

**Defendants.**

**ORDER AFFIRMING & ADOPTING  
REPORT & RECOMMENDATION**

**Case No. 2:19-CV-00378-DAK-CMR**

**Judge Dale A. Kimball**

**Magistrate Judge Cecilia M. Romero**

---

This case was assigned to United States District Court Judge Dale A. Kimball, who then referred it to United States Magistrate Judge Cecilia M. Romero under 28 U.S.C. § 636(b)(1)(B). On October 7, 2021, Magistrate Judge Romero issued a Report and Recommendation (ECF No. 9), recommending that Plaintiff's Complaint (ECF No. 3) be dismissed as frivolous and for failing to state a claim upon which relief may be granted. The Report and Recommendation notified Plaintiff that any objection to the Report and Recommendation must be filed within fourteen days of receiving it. Plaintiff asked for two extensions of the deadline to file an objection, and the court approved both extensions – the second one of which ended on November 30th. Nevertheless, Plaintiff missed both deadlines and failed to submit an objection as of the date of this Order.


A Magistrate Judge's Report and Recommendation is subject to *de novo* review by this court. *See* 28 U.S.C. § 636(b)(1)(B); *see also* Fed. R. Civ. P. 72(b). The court has reviewed the Report and Recommendation and the record *de novo* and agrees with Magistrate Judge Romero's recommendations for dismissing Plaintiff's Complaint, which – as best as the court can discern –

is a complaint about “a contract to ride 1<sup>st</sup> amendment freedom of speech.” The handwritten materials Plaintiff submitted are mostly illegible, and the various other materials submitted fail to support or supplement any claim or basis for relief. The court agrees that Plaintiff’s Complaint and subsequent filings are frivolous, and that the court cannot draw from the baseless assertions therein – even under the most liberal construction possibly afforded a *pro se* plaintiff – the reasonable inference that any of the named defendants are liable for the misconduct alleged. Furthermore, given that Plaintiff failed to submit any objections to the Report and Recommendation, the court finds no reason to set it aside.

Therefore, the court adopts and affirms Magistrate Judge Romero’s Report and Recommendation in its entirety. Accordingly, Plaintiff’s Complaint is dismissed without prejudice because it is frivolous and fails to state a claim upon which relief may be granted.

DATED this 8th day of December, 2021.

BY THE COURT:

A handwritten signature in black ink that reads "Dale A. Kimball". The signature is written in a cursive style and is positioned above a horizontal line.

DALE A. KIMBALL

United States District Judge