

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

CARLOS BRITO,

Plaintiff,

v.

Case No: 6:17-cv-2192-Orl-28DCI

**POINTE ORLANDO DEVELOPMENT
COMPANY, FUNKY MONKEY, INC.,
THE JOHNNY ROCKETS GROUP, INC.
and GIANO GELATO, LLC,**

Defendants.

ORDER

This case is before the Court on the Report and Recommendation (Doc. 47) filed by the assigned United States Magistrate Judge following Plaintiff's Response (Doc. 39) to the magistrate judge's Order to Show Cause (Doc. 35) why the Complaint (Doc. 1) should not be dismissed without prejudice for improper joinder. In the Report, the magistrate judge found Plaintiff's Response to be inadequate, and the Report recommends: that the Court dismiss the Complaint without prejudice; that any claims against Defendants Pointe Orlando Development Company, The Johnny Rockets Group, and Giano Gelato, LLC be severed from this case and those Defendants be dropped as parties from this case; that the Clerk be directed to terminate Defendants Pointe Orlando Development Company, The Johnny Rockets Group, and Giano Gelato, LLC from this action; that Plaintiff be directed to either (a) file an amended complaint alleging only claims related to Defendant Funky Monkey, Inc. or (b) file a notice of voluntary dismissal as to Defendant Funky Monkey, Inc.;

and that Plaintiff be permitted to file three separate actions as to Defendants Pointe Orlando Development Company, The Johnny Rockets Group, and Giano Gelato, LLC.¹

No party has filed an Objection to the Report, and the time for filing objections has passed. And the same day that the Report was filed, Plaintiff filed a notice of voluntary dismissal as to Defendant Funky Monkey, Inc. (Doc. 48).

After review of the record in this matter, and noting that no objection has been filed and that Plaintiff has filed a notice of voluntary dismissal as to Funky Monkey, Inc., the Court agrees with the findings and conclusions in the Report and Recommendation. Therefore, it is **ORDERED** as follows:

1. The Report and Recommendation (Doc. 47) is **ADOPTED** and **CONFIRMED** and made a part of this Order.

2. Plaintiff's claims against Defendants Pointe Orlando Development Company, The Johnny Rockets Group, and Giano Gelato, LLC are **SEVERED** from this case, and these Defendants are **DROPPED** as parties to this case. The Clerk is directed to terminate Defendants Pointe Orlando Development Company, The Johnny Rockets Group, and Giano Gelato, LLC as parties to this action. Plaintiff may file three separate actions as to Defendants Pointe Orlando Development Company, The Johnny Rockets Group, and Giano Gelato, LLC.

3. The Complaint (Doc. 1) is **DISMISSED without prejudice**.

¹ The Report recognizes "that Plaintiff may choose not to file these additional actions against Defendants Pointe Orlando Development Company, The Johnny Rockets Group, and Giano Gelato, LLC due to the recently-filed joint stipulations of dismissal as [to] those Defendants." (Doc. 47 at 8 n.4).

4. In light of Plaintiff's filing of a Notice of Voluntary Dismissal (Doc. 48) of Defendant Funky Monkey, Inc. since the issuance of the Report, the Clerk is directed to close this case.

DONE and **ORDERED** in Orlando, Florida, on June 25, 2018.



JOHN ANTOON II
United States District Judge

Copies furnished to:
United States Magistrate Judge
Counsel of Record
Unrepresented Parties