

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

DAVID MARK ONDIS, the House of
Ondis Grantor/Executor/Heir/Sole
Shareholder/Director/Administrator c/o
205 South Dixie Suite 125, Haines City,
Florida 33844,

Plaintiff,

v.

Case No: 8:18-cv-3107-T-35TGW

RP FUNDING INC. & ROBERT
PALMER, a Florida Corporation,

Defendant.

ORDER

THIS CAUSE comes before the Court for consideration of the Motion for Leave to Proceed *in Forma Pauperis* filed by Plaintiff, David Mark Ondis. (Dkt. 2) On January 3, 2019, United States Magistrate Judge Thomas G. Wilson issued a Report and Recommendation, recommending Plaintiff's Complaint be dismissed without prejudice for failure to state a claim upon which relief may be granted. (Dkt. 5) Judge Wilson recommends that Plaintiff be granted leave to file an amended complaint. (Id.) No objection to Judge Wilson's Report and Recommendation has been filed, and the time to do so has now passed.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify the Magistrate Judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732, 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). A district judge "shall

make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C). This requires that the district judge “give fresh consideration to those issues to which specific objection has been made by a party.” Jeffrey S. v. State Bd. of Educ., 896 F.2d 507, 512 (11th Cir.1990) (quoting H.R. 1609, 94th Cong. § 2 (1976)). In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo*, Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject, or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. See Cooper-Houston v. Southern Ry., 37 F.3d 603, 604 (11th Cir. 1994).


Upon consideration of the Report and Recommendation, in conjunction with an independent examination of the file, the Court is of the opinion that the Report and Recommendation should be adopted, confirmed, and approved in all respects. Accordingly, it is **ORDERED** that:

1. The Report and Recommendation, (Dkt. 5), is **CONFIRMED** and **ADOPTED** as part of this Order;
2. Plaintiff’s Complaint, (Dkt. 1), is **DISMISSED WITHOUT PREJUDICE**. Plaintiff is granted leave to file, within **THIRTY (30) DAYS** of the date of this Order, an amended complaint that addresses the deficiencies noted in Judge Wilson’s Report and Recommendation. If Plaintiff decides to proceed in this action, Plaintiff is encouraged to read the Federal Rules of Civil Procedure and the Local Rules of this Court and file an amended complaint that conforms to the pleading requirements contained therein.

The Local Rules are available for review on the public website for the Middle District Court of Florida at www.flmd.uscourts.gov and may be obtained from the Clerk's Office. Additionally, the website for the Middle District of Florida currently has a reference guide for the *pro se* litigant entitled "Guide for Proceeding Without a Lawyer."¹ It provides, among other things, guidance to *pro se* plaintiffs on how to locate the applicable rules. Plaintiff is encouraged to refer to that resource before filing any amended complaint in this matter;

3. The ruling on Plaintiff's Motion for Leave to Proceed *in Forma Pauperis*, (Dkt. 2), is **DEFERRED** pending the filing of an Amended Complaint; and
4. **Plaintiff is advised that if no cognizable amended complaint or a request for extension of time is filed within the timeframe stated above, the case shall be CLOSED without further notice.**

DONE and **ORDERED** in Tampa, Florida, this 22nd day of January, 2019.



MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record
Any Unrepresented Person

¹ This guide may be accessed at <http://www.flmd.uscourts.gov/litigants-without-lawyers>.