

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

OSVALDO ALFONSO,

Plaintiff,

v.

Case No: 5:19-cv-204-Oc-30PRL

INTERNAL REVENUE SERVICE,  
LOCAL GOVERNMENT RETIREMENT  
SYSTEM NON FRS, CITY OF SUNRISE  
and RESOURCE CENTERS,

Defendants.

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**ORDER**

**THIS CAUSE** came on for consideration on the Report and Recommendation submitted by Magistrate Judge Philip R. Lammens (Doc. 7). Alfonso timely filed written objections to the Report and Recommendation (Doc. 8), but the objections are without merit.<sup>1</sup>

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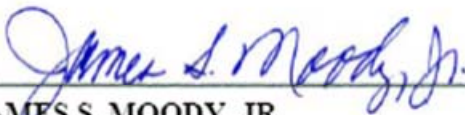
<sup>1</sup> Specifically, Alfonso objected to the following: (1) the Magistrate Judge's reference to the "alleged" theft of Alfonso's retirement benefit, which Alfonso argues is a fact; (2) the Magistrate Judge's conclusion that Alfonso's claims under ERISA are time-barred and frivolous based on *Harzewski v. Guidant Corp.*, 489 F.3d 799 (7th Cir. 2007), and *Cent. Laborers' Pension Fund v. Heinz*, 541 U.S. 739, 124 S. Ct. 2230, 159 L. Ed. 2d 46 (2004); and (3) the Magistrate Judge's conclusion that the Amended Complaint does not comply with the Federal Rules of Civil Procedure. The first objection is irrelevant to the Magistrate Judge's analysis. The second objection misapprehends the holdings of the cited cases, which did not address the ERISA statute of limitations or whether a claim like Alfonso's was frivolous. And Alfonso is simply wrong on his third objection, as this Court also concludes, after review of the Amended Complaint, that it fails to comply with the Federal Rules of Civil Procedure.

After careful consideration of the Report and Recommendation of the Magistrate Judge in conjunction with an independent examination of the file, the Court is of the opinion that the Magistrate Judge's Report and Recommendation should be adopted, confirmed, and approved in all respects.

**ACCORDINGLY**, it is therefore, **ORDERED AND ADJUDGED**:

1. The Report and Recommendation (Doc. 7) of the Magistrate Judge is adopted, confirmed, and approved in all respects and is made a part of this order for all purposes, including appellate review.
2. The Motion to Proceed *in Forma Pauperis* (Doc. 2) is DENIED.
3. This action is DISMISSED WITH PREJUDICE.<sup>2</sup>
4. All pending motions are denied as moot.
5. The Clerk is directed to close this case.

**DONE** and **ORDERED** in Tampa, Florida, this 10th day of July, 2019.

  
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JAMES S. MOODY, JR.  
UNITED STATES DISTRICT JUDGE

**Copies Furnished To:**  
Counsel/Parties of Record

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<sup>2</sup> This is not the first time Alfonso brought these claims. In case 5:17-cv-542-Oc, Alfonso brought similar claims before this Court. In the Report and Recommendation in that case (Doc. 10), the Magistrate Judge explained that Alfonso had filed numerous cases based on similar claims in other courts as well. In all the cases, Alfonso's claims were dismissed as frivolous, and, in at least one, he was warned that he would be responsible for paying Defendants' attorneys' fees if he filed similar claims again. Clearly, Alfonso was undeterred. So the Court now cautions Alfonso that he will be sanctioned by the Court if he files a new action raising substantially similar claims, and that the sanctions may include restricting his ability to file *pro se* actions and monetary fines.