

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

JOHN DANIEL SMITH,

Plaintiff,

v.

Case No: 6:23-cv-1718-JSS-LHP

ASHER KNIPE, KENNETH KEMP,
TIMOTHY MACE, ELIZABETH
BENTLEY, JAMES SHENKO and
DAVID LEMSON,

Defendants.

_____ /

ORDER

Plaintiff John D. Smith, proceeding pro se, brought this action seeking damages for copyright infringement and a preliminary injunction. (Complaint, Dkt. 46.) Each Defendant moved to dismiss Plaintiff's Complaint. (Dkts. 21, 22, 23, 43.) On February 13, 2024, United States Magistrate Judge Leslie Hoffman Price entered a report and recommendation recommending that Defendants' motions to dismiss be granted in part and denied in part without prejudice. (Dkt. 48.) No party has objected, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1).

After conducting a careful and complete review of the findings and recommendations, a district judge "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72. With respect to non-dispositive matters, the

district judge “must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law.” Fed. R. Civ. P. 72(a); *see Jordan v. Comm’r, Miss. Dep’t of Corr.*, 947 F.3d 1322, 1327 (11th Cir. 2020). For dispositive matters, the district judge must conduct a de novo review of any portion of the report and recommendation to which a timely objection is made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3); *United States v. Farias-Gonzalez*, 556 F.3d 1181, 1184 n.1 (11th Cir. 2009) (“A district court makes a de novo determination of those portions of a magistrate’s report to which objections are filed.”). Even in the absence of a specific objection, the district judge reviews any legal conclusions de novo. *See Cooper-Houston v. S. Ry. Co.*, 37 F.3d 603, 604 (11th Cir. 1994); *Ashworth v. Glades Cnty. Bd. of Cnty. Comm’rs*, 379 F. Supp. 3d 1244, 1246 (M.D. Fla. 2019).

Upon conducting a careful and complete review of Judge Hoffman Price’s findings, conclusions, and recommendations, and giving de novo review to matters of law, the court adopts the report and recommendation in full.

Accordingly:

1. Judge Hoffman Price’s Report and Recommendation (Dkt. 48) is **ACCEPTED** and **ADOPTED**.
2. Defendants’ Motions to Dismiss (Dkts. 21, 22, 23, 43) are **GRANTED in part** and **DENIED without prejudice in part**.
3. Plaintiff’s Complaint (Dkt. 46) is **DISMISSED without prejudice** as a shotgun pleading. Plaintiff shall file an amended complaint, if any,

within 30 days of this order. Plaintiff shall ensure that such amended complaint does not contain Judge Shenko's personal home address (which includes the city, state and zip code).

4. Defendants' Motions to Dismiss (Dkts. 21, 22, 23, 43) are otherwise denied.

ORDERED in Orlando, Florida, on April 15, 2024.



JULIE S. SNEED
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record
Unrepresented Party