

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Marvin A. Sewell v. Franklin Credit Management Corporation

Sewell · No. 2:24-cv-1788 TLN SCR · Decided August 28, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations concerning Defendant’s motion to dismiss. The court granted the motion as to the fifth and sixth causes of action without leave to amend, granted it as to the first, second, and third causes of action with leave to amend, denied it as to the eighth cause of action, and granted it as to the seventh, ninth, and tenth causes of action with leave to reassert them upon amendment.

CASE DETAILS

|                    |                                                                                                                                                                                                                                        |
|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT              | United States District Court for the Eastern District of California                                                                                                                                                                    |
| JURISDICTION       | United States District Court for the Eastern District of California                                                                                                                                                                    |
| DECIDED            | August 28, 2025                                                                                                                                                                                                                        |
| DOCKET             | 2:24-cv-1788 TLN SCR                                                                                                                                                                                                                   |
| DISPOSITION        | other                                                                                                                                                                                                                                  |
| PROCEDURAL POSTURE | The district court reviewed a magistrate judge's findings and recommendations after Plaintiff filed objections and Defendant responded. The court adopted the findings and recommendations and ruled on Defendant's motion to dismiss. |
| STANDARD OF REVIEW | The court presumed the magistrate judge's findings of fact were correct and reviewed the magistrate judge's conclusions of law de novo.                                                                                                |
| PRECEDENTIAL VALUE | Unknown                                                                                                                                                                                                                                |
| PARTIES            | Marvin A. Sewell v. Franklin Credit Management Corporation                                                                                                                                                                             |

TOPICS

- motions to dismiss
- pleadings
- civil procedure

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether the magistrate judge's findings and recommendations should be adopted after review of Plaintiff's objections.
2. How Defendant's motion to dismiss should be resolved as to the pleaded causes of action, including whether dismissal should be with or without leave to amend.

## HOLDINGS

1. The district court presumed the magistrate judge's findings of fact were correct and reviewed the magistrate judge's conclusions of law de novo.
2. The motion to dismiss was granted without leave to amend as to the fifth and sixth causes of action; granted with leave to amend as to the first, second, and third causes of action; denied as to the eighth cause of action; and granted as to the seventh, ninth, and tenth causes of action, with leave to reassert those claims upon amendment of the first, second, or third causes of action in accordance with the court's order.

## KEY QUOTATIONS

*“The magistrate judge’s conclusions of law are reviewed de novo.”* (at 1)

*“Defendant’s Motion to Dismiss, (ECF No. 6), is GRANTED in part and DENIED in part”* (at 1-2)

## FACTUAL BACKGROUND

The opinion contains no substantive facts concerning the underlying claims. It concerns Plaintiff's objections to a magistrate judge's findings and recommendations addressing Defendant's motion to dismiss.

## PROCEDURAL HISTORY

The matter was referred to a magistrate judge under Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1). On March 18, 2025, the magistrate judge issued findings and recommendations; Plaintiff objected and Defendant responded. The district court adopted the findings and recommendations in full and granted the motion to dismiss in part and denied it in part.

## DISPOSITION

other

## CASES CITED

- Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979)
- Robbins v. Carey, 481 F.3d 1143, 1147 (9th Cir. 2007)

## OPINION

(PS) Sewell v. Franklin Credit Mgt. Corp.

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 MARVIN A. SEWELL,

12 Plaintiff, No. 2:24-cv-1788 TLN SCR 13 v.

14 FRANKLIN CREDIT MANAGEMENT ORDER

CORPORATION,

15 Defendant. 16

17 Plaintiff Martin A. Sewell ("Plaintiff") is proceeding in this action in pro per. The matter 18  
was referred to a United States Magistrate Judge pursuant to Local Rule 302(c)(21) and 28 U.S.C.  
19 § 636(b)(1). 20 On March 18, 2025, the magistrate judge filed findings and recommendations  
which were 21 served on all parties and which contained notice that any objections to the findings  
and 22 recommendations were to be filed within fourteen days. (ECF No. 25.) Plaintiff has filed  
23 objections to the findings and recommendations. (ECF No. 26.) Defendant has filed a response  
24 to the objections to the findings and recommendation. (ECF No. 27.) 25 The Court presumes  
that any findings of fact are correct. See *Orand v. United States*, 602 26 F.2d 207, 208 (9th Cir.  
1979). The magistrate judge's conclusions of law are reviewed de novo. 27 See *Robbins v. Carey*,  
481 F.3d 1143, 1147 (9th Cir. 2007) ("[D]eterminations of law by the 28 1 magistrate judge are  
reviewed de novo by both the district court and [the appellate] court[.]"). 2 Having reviewed the  
file, the Court finds the findings and recommendations to be supported by 3 the record and by the  
proper analysis. 4 Accordingly, IT IS HEREBY ORDERED that: 5 1. The findings and  
recommendations filed March 18, 2025, are adopted in full; and 6 2. Defendant's Motion to  
Dismiss, (ECF No. 6), is GRANTED in part and DENIED in part, 7 as follows: 8 a. GRANTED  
as to the fifth and sixth causes of action WITHOUT LEAVE TO 9 AMEND; 10 b. GRANTED as  
to the first, second, and third causes of action WITH LEAVE TO 11 AMEND; 12 c. DENIED as to  
the eighth cause of action; and 13 d. GRANTED as to the seventh, ninth, and tenth causes of  
action, but WITH 14 LEAVE TO REASSERT these claims upon amendment of the first, second,  
or 15 third cause of action in accordance with the Court's order. 16 Date: August 27, 2025 17 18  
19 20 21 22 23 24 25 26 27 28