

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
FLORIDA

Reuven T. Herssein v. AGA Services Company, et al.

Herssein · No. 25-60256-CIV-SMITH · Decided March 12, 2026

SUMMARY

The United States District Court for the Southern District of Florida affirmed and adopted the magistrate judge’s Report and Recommendation recommending dismissal of Plaintiff’s claims. The court granted Defendants’ motion to dismiss, denied any remaining motions as moot, and closed the case.

CASE DETAILS

COURT	United States District Court for the Southern District of Florida
WRITING FOR THE COURT	Rodney Smith
JURISDICTION	United States District Court for the Southern District of Florida
DECIDED	March 12, 2026
DOCKET	25-60256-CIV-SMITH
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff objected to a magistrate judge's Report and Recommendation recommending dismissal of the action. The district court conducted de novo review of the challenged portions, affirmed and adopted the Report and Recommendation, granted Defendants' motion to dismiss, denied remaining motions as moot, and closed the case.
STANDARD OF REVIEW	De novo review applies to portions of a magistrate judge's report and recommendation to which specific objections are made. Objections that merely rehash arguments previously presented or disagree with the magistrate judge's conclusions are improper and do not warrant reconsideration.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- motions to dismiss
- pleadings
- civil procedure
- fraud
- contract interpretation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Plaintiff's objections to the magistrate judge's Report and Recommendation were sufficiently specific and proper to require rejection or modification of the recommendation.
2. Whether the magistrate judge applied the motion-to-dismiss standard erroneously by resolving factual disputes, legal ambiguities, disclosure adequacy, and contract ambiguity against Plaintiff.
3. Whether Defendants' motion to dismiss should be granted and the action dismissed.

HOLDINGS

1. Objections are improper when they expand upon or reframe arguments already considered by the magistrate judge or merely disagree with the magistrate judge's conclusions; such objections do not warrant rejection of the Report and Recommendation.
2. The magistrate judge did not apply the motion-to-dismiss standard erroneously, and the Report and Recommendation should be affirmed and adopted.

KEY QUOTATIONS

"Clearly, parties are not to be afforded a 'second bite at the apple' when they file objections to a R & R." (at 1)

FACTUAL BACKGROUND

The order does not recount the underlying transaction or substantive facts in detail. It identifies a putative class action brought by Reuven T. Herssein against AGA Services Company and others, asserting claims including common-law fraud and a contract claim. The district court's decision concerns the adequacy of Plaintiff's objections to a recommendation that the claims be dismissed.

PROCEDURAL HISTORY

Defendants moved to dismiss under Federal Rule of Civil Procedure 12(b), and Magistrate Judge Patrick M. Hunt recommended that the motion be granted. Plaintiff filed objections asserting that the Report and Recommendation improperly resolved factual and legal issues against him and applied the pleading standard incorrectly. The district court determined that the objections merely expanded or reframed arguments already presented to the magistrate judge or disagreed with his conclusions, conducted de novo review, adopted the Report and Recommendation, granted dismissal, and closed the case.

DISPOSITION

dismissed

CASES CITED

- United States v. Schultz, 565 F.3d 1353, 1360 (11th Cir. 2009)

- Melillo v. United States, No. 17-CV-80489, 2018 WL 4258355, at *1 (S.D. Fla. Sept. 6, 2018)
- Marlite, Inc. v. Eckenrod, No. 10-23641-CIV, 2012 WL 3614212, at *2 (S.D. Fla. Aug. 21, 2012)
- Camardo v. Gen. Motors Hourly-Rate Emps. Pension Plan, 806 F. Supp. 380, 382 (W.D.N.Y. 1992)

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