

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS, HOUSTON DIVISION

Pestova v. US Bank Trust Company

Pestova · No. 4:25-cv-00551 · Decided March 16, 2026

SUMMARY

The United States District Court for the Southern District of Texas adopted two magistrate judge memoranda and recommendations in an action brought pro se by Svetlana A. Pestova against US Bank Trust Company. The court granted the remaining motion to dismiss and dismissed the action with prejudice, denied the earlier motion to dismiss as moot, and stated that final judgment would enter separately.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas, Houston Division
WRITING FOR THE COURT	Charles Eskridge
JURISDICTION	United States District Court for the Southern District of Texas
DECIDED	March 16, 2026
DOCKET	4:25-cv-00551
DISPOSITION	dismissed
PROCEDURAL POSTURE	Removed diversity action in which the defendant moved to dismiss for failure to state a claim. The district court reviewed and adopted magistrate judge memoranda and recommendations and dismissed the action with prejudice.
STANDARD OF REVIEW	The district court reviews de novo those portions of a magistrate judge's memorandum and recommendation to which a party specifically objects. Unobjected-to portions may be accepted after review for clear error on the face of the record.
PRECEDENTIAL VALUE	Unknown; unpublished federal district court order

TOPICS

- motions to dismiss
- pleadings
- civil procedure
- injunctions
- equitable relief

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's memoranda and recommendations when no party filed objections and no clear error appeared on the face of the record.
2. Whether Defendant's remaining motion to dismiss for failure to state a claim should be granted and the action dismissed with prejudice after Plaintiff failed to cure the pleading deficiencies or provide a proposed amended complaint.
3. Whether Defendant's earlier motion to dismiss should be denied as moot.

HOLDINGS

1. Because no party filed objections and no clear error appeared on the face of the record, the district court adopted the magistrate judge's memoranda and recommendations.
2. The remaining motion to dismiss was granted, and Plaintiff's claims were dismissed with prejudice after Plaintiff failed to cure the pleading deficiencies or provide a proposed amended complaint.
3. The earlier motion to dismiss was denied as moot.

KEY QUOTATIONS

"No party filed objections. No clear error appears upon review and consideration of the Memoranda and Recommendations, the record, and the applicable law."

"The Memoranda and Recommendations of the Magistrate Judge are ADOPTED as the Memorandum and Order of this Court."

"The motion by Defendant US Bank Trust Company to dismiss is GRANTED."

FACTUAL BACKGROUND

Svetlana A. Pestova sued US Bank Trust Company for unjust enrichment and injunctive relief. The action was removed from Texas state court on the basis of diversity jurisdiction. The pleadings did not state a plausible claim for relief, and after being given an opportunity to amend, Pestova neither addressed the identified deficiencies nor supplied a proposed amended complaint.

PROCEDURAL HISTORY

Plaintiff filed an action for unjust enrichment and injunctive relief in the 281st District Court of Harris County, Texas. Defendant removed the action based on diversity jurisdiction and filed two motions to dismiss. After the magistrate judge recommended that one motion be denied as moot and that the remaining motion be granted, subject to an opportunity to amend, Plaintiff filed a putative motion for leave to amend but did not cure the identified deficiencies or provide a proposed amended complaint. The magistrate judge then recommended dismissal with prejudice, and the district court adopted both memoranda and recommendations after finding no objections and no clear error.

DISPOSITION

dismissed

CASES CITED

- United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989)
- Guillory v. PPG Industries, Inc., 434 F.3d 303, 308 (5th Cir. 2005)
- Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc)

OPINION

March 16, 2026 Nathan Ochsner, Clerk UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION SVETLANA A. PESTOVA, § CIVIL ACTION NUMBER Plaintiff, § 4:25-cv-00551 § § versus § JUDGE CHARLES ESKRIDGE § § US BANK TRUST COMPANY, § Defendant. § ORDER ADOPTING MEMORANDA AND RECOMMENDATIONS Plaintiff Svetlana A. Pestova proceeds here pro se. She sued Defendant US Bank Trust Company for unjust enrichment and injunctive relief in the 281st District Court of Harris County, Texas.

Dkt 1 at 13–14 (original petition). Defendant removed based on diversity jurisdiction. Id at 2. It then filed two motions to dismiss for failure to state a claim. See Dkts 6 & 7. The matter was referred for disposition to Magistrate Judge Richard Bennett. Dkt 5. Judge Bennett entered a Memorandum and Recommendation recommending that the earlier motion to dismiss be denied as moot.

Id at 10. He further noted that the original petition fails to plead a plausible claim for relief. Id at 5–8. But he stated such failure shouldn’t automatically result in dismissal with prejudice. Id at 9. He thus recommended that the remaining motion to dismiss be granted and Plaintiff’s claims be dismissed unless Plaintiff moved for leave to amend within fourteen days.

Id at 9–10. Plaintiff timely filed a putative motion for leave to amend. Dkt 16. But she failed to address any deficiencies noted in the prior Memorandum and Recommendation, while also failing to provide a proposed amended complaint. Judge Bennett thus entered another Memorandum and Recommendation recommending that the remaining motion to dismiss be granted and this suit dismissed with prejudice.

Dkt 17 at 12-13. The district court reviews de novo those conclusions of a magistrate judge to which a party has specifically objected. See FRCP 72(b)(3) & 28 USC § 636(b)(1)(C); see also United States v Wilson, 864 F2d 1219, 1221 (5th Cir 1989, per curiam).

The district court may accept any other portions to which there’s no objection if satisfied that no clear error appears on the face of the record. See Guillory v PPG Industries Inc, 434 F3d 303, 308

(5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1430 (5th Cir 1996, en banc); see also FRCP 72(b) advisory committee note (1983).

No party filed objections. No clear error appears upon review and consideration of the Memoranda and Recommendations, the record, and the applicable law. The Memoranda and Recommendations of the Magistrate Judge are ADOPTED as the Memorandum and Order of this Court. Dkts 15 & 17.

The motion by Defendant US Bank Trust Company to dismiss is GRANTED. Dkt 7 The prior motion to dismiss is DENIED AS MOOT. Dkt 6. A final judgment dismissing this action with prejudice will enter separately. SO ORDERED. Signed on March 10, 2026, at Houston, Texas.
Honorable Charles raleiice United States District Judge