

**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

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 J. Hale United States District Judge