

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

STEVEN D. PANKEY,

Plaintiff,

v.

RIDLEY'S FOOD CORPORATION,  
dba RIDLEY'S FOOD & DRUG,  
JERRY RIDLEY, individually, ACTION  
COLLECTION SERVICE, INC., JOHN  
F. MUIR, GRANT E. MUIR, JR.,  
individually,

Defendants.

Case No. 1:11-CV-00641-EJL-CWD

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

On July 10, 2012, United States Chief Magistrate Judge Candy W. Dale issued a Report and Recommendation, recommending that Defendants' Motions to Dismiss be granted. Any party may challenge a Magistrate Judge's proposed recommendation by filing written objections within fourteen days after being served with a copy of the magistrate's Report and Recommendation. 28 U.S.C. § 636(b)(1)(C). The district court must then "make a de novo determination of those portions of the report or specified

proposed findings or recommendations to which objection is made.” *Id.* The district court may accept, reject, or modify in whole or in part, the findings and recommendations made by the magistrate. *Id.*; *see also* Fed. R. Civ. P. 72(b).

Plaintiff filed objections to the Report and Recommendation’s conclusions arguing they are in error in recommending that his claims be dismissed. (Dkt. 44.) The Court has considered the Plaintiff’s contentions, the response by the Defendants, conducted a *de novo* review of the record and, upon that basis, finds as follows as to the Motion to Dismiss. (Dkt. 45.)

### **Discussion**

Having reviewed the Motion, briefing, and the entire record in these matters, the Court finds the Report and Recommendation has correctly decided the Motion. The sum and substance of the Plaintiff’s objections are the same arguments made in response to the Motion to Dismiss. The Magistrate Judge addressed these arguments and decided the issues presented in the Motion consistent with this Court’s own view of the record. Having reviewed the parties’ briefing and the record herein and for the reasons stated in the Report and Recommendation, the Court agrees with Chief Judge Dale’s conclusions and will grant the Motion to Dismiss. The Court further agrees that the defects in Plaintiff’s Complaint cannot be cured by amendment and, therefore, no leave to amend shall be granted.

## ORDER

Having conducted a *de novo* review of the Report and Recommendation, this Court finds that Chief Magistrate Judge Dale's Report and Recommendation is well founded in law and consistent with this Court's own view of the evidence in the record. Acting on the recommendation of Chief Magistrate Judge Dale, and this Court being fully advised in the premises, **IT IS HEREBY ORDERED** that the Report and Recommendation entered on July 10, 2012 (Dkt. 43), should be, and is hereby, **INCORPORATED** by reference and **ADOPTED** in its entirety.

**NOW THEREFORE IT IS HEREBY ORDERED** as follows:

- 1) Defendants' Motion to Dismiss (Dkt. 29) is **GRANTED**.
- 2) Defendants' Joinder in Motion to Dismiss (Dkt. 36) is **GRANTED**.
- 3) Plaintiff's Amended Complaint (Dkt. 23) is **DISMISSED WITH PREJUDICE**.



DATED: **August 28, 2012**

A handwritten signature in black ink, appearing to read "Edward J. Lodge".

Honorable Edward J. Lodge  
U. S. District Judge