

ENTERED

June 30, 2022

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

WAYNE SMITH,	§	CIVIL ACTION NO.
Plaintiff,	§	4:21-cv-03079
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
JUDGE DAVID	§	
HITTNER and MTGLQ	§	
INVESTORS LP,	§	
Defendants.	§	

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

Pending are Memoranda and Recommendations by Magistrate Judge Sam S. Sheldon dated December 27, 2021, and February 3, 2002. Dkts 25 & 36. Also pending are objections and various other motions by Plaintiff Wayne Smith. See Dkts 26 & 40 (objections); Dkts 17, 28, 34, 35, 37 & 39 (motions).

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).

Upon *de novo* review and determination, Smith's objections lack merit. No clear error otherwise appears

upon review and consideration of the Memoranda and Recommendations, the record, and the applicable law.

The objections by Smith to the Memoranda and Recommendations of the Magistrate Judge are OVERRULED. Dkts 26 & 40.

The Memoranda and Recommendations of Magistrate Judge Sheldon are ADOPTED as the Memoranda and Orders of this Court. Dkts 25 & 36.

The motion to dismiss by Defendant Judge David Hittner is GRANTED. Dkt 20. Judge Hitter is DISMISSED WITH PREJUDICE.

The motion to dismiss by Defendant MTGLQ Investors LP is GRANTED. Dkt 30. MTGLQ is DISMISSED WITH PREJUDICE.

The motion by Plaintiff Wayne Smith for recusal is DENIED. Dkt 27. No valid basis for recusal is stated.

Smith's various other motions encompassed within the Memorandum and Recommendation of February 3, 2022, are DENIED AS MOOT. Dkts 17, 28, 34 & 35.


Smith's later-filed motions are also DENIED AS MOOT. Dkts 37 & 39.

All claims asserted by Plaintiff Wayne Smith are DISMISSED WITH PREJUDICE.

A final judgment will issue separately.

SO ORDERED.

Signed on June 30, 2022, at Houston, Texas.


Hon. Charles Eskridge
United States District Judge