

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

\_\_\_\_\_  
No. 19-11119  
\_\_\_\_\_



ADRIANO BUDRI,

Plaintiff - Appellant

A True Copy  
Certified order issued Nov 14, 2019

*Judy W. Cayce*  
Clerk, U.S. Court of Appeals, Fifth Circuit

v.

FIRSTFLEET, INCORPORATED, a Nationwide Trucking Company;  
DANIEL MATTHEW HUMPHREYS, Regional Supervisor; LAURIE  
BROOKS; DAVID R. BEENY, Vice President and Financial Officer,

Defendants - Appellees

\_\_\_\_\_  
Appeal from the United States District Court  
for the Northern District of Texas  
\_\_\_\_\_

Before JONES, CLEMENT, and HAYNES, Circuit Judges.

PER CURIAM:

This court must examine the basis of its jurisdiction, on its own motion if necessary. *Hill v. City of Seven Points*, 230 F.3d 167, 169 (5th Cir. 2000). In this case, the plaintiff filed a notice of appeal from the magistrate judge’s report and recommendation to grant defendants’ motion to dismiss, dismiss plaintiff’s Surface Transportation Assistance Act claims for lack of subject matter jurisdiction, and to dismiss all of plaintiff’s other claims for failure to state a claim.

“Federal appellate courts have jurisdiction over appeals only from (1) a final decision under 28 U.S.C. § 1291; (2) a decision that is deemed final due to

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jurisprudential exception or that has been properly certified as final pursuant to Fed. R. Civ. P. 54(b); and (3) interlocutory orders that fall into specific classes, 28 U.S.C. § 1292(a), or that have been properly certified for appeal by the district court, 28 U.S.C. § 1292(b).” *Askanase v. Livingwell, Inc.*, 981 F.2d 807, 809-10 (5th Cir. 1993). The report and recommendation of a magistrate judge is not a final order and it does not fall into any of the other categories that would make it appealable. *See United States v. Cooper*, 135 F.3d 960, 961 (5th Cir. 1998). Moreover, although the district court subsequently adopted the report and recommendation, the present notice of appeal is not effective for purposes of appealing that judgment, which must be separately appealed. *Id.* at 962 (“[T]he recommendation of a magistrate judge is not a final decision and does not in any way ‘dispose of’ a party’s claims.”). It appears that Burdri has done so under Case No. 19-11203, which is not affected by this order; we offer no opinion on the validity of that appeal.

The appeal in Case No. 19-11119 is DISMISSED for want of jurisdiction.

***United States Court of Appeals***

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

November 14, 2019

Ms. Karen S. Mitchell  
Northern District of Texas, Dallas  
United States District Court  
1100 Commerce Street  
Earle Cabell Federal Building  
Room 1452  
Dallas, TX 75242

No. 19-11119 Adriano Budri v. FirstFleet, Incorporated,  
et al  
USDC No. 3:19-CV-409

Dear Ms. Mitchell,

Enclosed is a copy of the judgment issued as the mandate.

Sincerely,

LYLE W. CAYCE, Clerk



By: \_\_\_\_\_  
Melissa B. Courseault, Deputy Clerk  
504-310-7701

cc:  
Mr. Adriano Budri  
Mr. Greg McAllister  
Mr. Charles Eric Stevens