

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

SABAL TRAIL TRANSMISSION, LLC,

Plaintiff,

vs.

Case No.: 3:16-cv-300-MMH-JBT

+/- 0.7 ACRES OF LAND IN SUWANNEE
COUNTY, FLORIDA, et al.,

Defendants.

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ORDER

THIS CAUSE is before the Court on the Report and Recommendation (Dkt. No. 159; Report), entered by the Honorable Joel B. Toomey, United States Magistrate Judge, on May 16, 2024. In the Report, Judge Toomey recommends that Defendants' Amended Motion for Attorney's Fees & Costs Re: Entitlement (Dkt. No. 151; Motion) be granted, in part, and denied, in part. See Report at 1, 9. No objections to the Report have been filed, and the time for doing so has now passed.

The Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b). Pursuant to Rule 72, Federal Rules of Civil Procedure (Rule(s)), the Court

“must determine de novo any part of the magistrate judge’s disposition that has been properly objected to.” See Rule 72(b)(3); see also 28 U.S.C. § 636(b)(1). However, a party waives the right to challenge on appeal any unobjected-to factual and legal conclusions. See 11th Cir. R. 3-1.¹ As such, the Court reviews those portions of the Magistrate Judge’s findings to which no objection was filed for plain error and only if necessary, in the interests of justice. See id.; see also Thomas v. Arn, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate [judge’s] factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.”); Dupree v. Warden, 715 F.3d 1295, 1304-05 (11th Cir. 2013) (recommending the adoption of what would become 11th Circuit Rule 3-1 so that district courts do not have “to spend significant amounts of time and resources reviewing every issue—whether objected to or not.”).

Upon independent review of the file and for the reasons stated in the Magistrate Judge’s Report, the Court will accept and adopt the legal and factual conclusions recommended by the Magistrate Judge. Accordingly, it is hereby


¹ The Magistrate Judge properly informed the parties of the time period for objecting and the consequences of failing to do so. See Report at 10.

ORDERED:

1. The Magistrate Judge's Report and Recommendation (Dkt. No. 159) is **ADOPTED** as the opinion of the Court.
2. Defendants' Amended Motion for Attorney's Fees & Costs Re: Entitlement (Dkt. No. 151) is **GRANTED, in part, and DENIED, in part.**
3. The Motion is **GRANTED** to the extent that Defendants are entitled to section 73.092(1), Florida Statutes, "benefits achieved" fees, section 73.092(2) "supplemental proceedings" fees, and section 73.091 district court costs.
4. The Motion is **DENIED** with regard to section 73.032 offer of judgment fees and "excessive litigation" fees.
5. Defendants are directed to file their motion regarding the amount of attorney's fees and expenses no later than **June 28, 2024.**
6. No later than **July 31, 2024**, the parties shall conduct a mediation in this matter.

7. If the mediation is unsuccessful, Plaintiff shall file a response to the motion for attorney's fees and expenses **within fourteen (14) days** from the filing of a notice that an impasse has been reached.

DONE AND ORDERED in Jacksonville, Florida, this 12th day of June, 2024.


MARCIA MORALES HOWARD
United States District Judge

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Copies to:

Counsel of Record
Pro Se Parties