

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ETHAN A. HOLMES, for himself and on
behalf of those similarly situated

Plaintiff,

v.

Case No: 2:16-cv-669-FtM-38MRM

SWISSPORT FUELING, INC. and
SWISSPORT SA FUEL SERVICES,
LLC,

Defendants.

ORDER¹

Before the Court is United States Magistrate Judge Mac R. McCoy's Report and Recommendation. ([Doc. 115](#)). Judge McCoy recommends the following:

- granting the parties' Joint Motion for Approval of Settlement Agreement ([Doc. 105](#)) and approving their settlement;
- dismissing this action *with prejudice* as to Plaintiff Ethan Holmes and Opt-In Plaintiffs Brandon Buchanon, James Gant, Giovanni Rodriguez, Kalyn Lady, Kevin Kilmartin, and Jalen Edwards; and
- dismissing this action *without prejudice* as to Opt-In Plaintiffs Carlos Diaz, Bradley Alderson, Richard Hagerty, and Francisco Ortiz.

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No party objects to the Report and Recommendation, and the time to do so has expired. The Report and Recommendation is thus ripe for review.

A district judge “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)(1). The district judge “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* And “[t]he judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

After examining the file independently, and upon considering Judge McCoy’s findings and recommendations, the Court accepts and adopts the Report and Recommendation.

Accordingly, it is now

ORDERED:

(1) The Report and Recommendation (Doc. 115) is **ACCEPTED** and **ADOPTED** and the findings incorporated herein.

a. The Joint Motion for Approval of Settlement Agreement (Doc. 105) is **GRANTED**.

b. The Settlement Agreement and Acknowledgment and General Release (Docs. 105-1, 112, 113) are **APPROVED** as a “fair and reasonable resolution of a bona fide dispute” of the parties’ FLSA issues.

(2) The Clerk of Court is **DIRECTED** to

- a. **DISMISS this action *with prejudice*** as to Plaintiff Ethan Holmes and Opt-In Plaintiffs Brandon Buchanon, James Gant, Giovanni Rodriguez, Kalyn Lady, Kevin Kilmartin, and Jalen Edwards;
- b. **DISMISS this action *without prejudice*** as to Opt-In Plaintiffs Carlos Diaz, Bradley Alderson, Richard Hagerty, and Francisco Ortiz; and
- c. terminate all pending motions and close the file.

(3) The funds allocated to Richard Hagerty and Francisco Ortiz in the Settlement Agreement remain with Swissport Fueling.

DONE and **ORDERED** in Fort Myers, Florida this 26th day of March 2019.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record