

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

COY MCBROOM, on behalf of
himself and others similarly
situated,

Plaintiff,

v.

Case No: 2:17-cv-481-FtM-99MRM

ISLAND CONSTRUCTION LLC, a
Florida limited liability
company and SHAWN LONGAKER,
individually,

Defendants.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #38), filed March 22, 2019, recommending that the Amended Joint Motion to Approve Settlement (Doc. #37) be denied without prejudice, and the parties elect a listed option no later than May 3, 2019. No objections have been filed and the time to do so has expired.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo*, Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject or modify, in

whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. See Cooper-Houston v. Southern Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); Castro Bobadilla v. Reno, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), aff'd, 28 F.3d 116 (11th Cir. 1994) (Table).

This is not the parties' first attempt to gain approval of their settlement agreement. Upon notice of settlement at mediation, the Magistrate Judge directed the parties to file a joint motion along with a copy of the Settlement Agreement. (Doc. #30.) The parties filed a motion, but failed to provide a copy of the Settlement Agreement. The Magistrate Judge directed the parties to file a copy of the Settlement Agreement. (Doc. #32.) Again, the parties failed to comply, and the Magistrate Judge directed compliance. (Doc. #34.) On January 30, 2019, the Magistrate Judge issued a Report and Recommendation (Doc. #35) recommending that the parties' Joint Motion to Approve Settlement (Doc. #31) be denied. On February 14, 2019, the undersigned adopted the recommendation, and directed the parties to file an amended motion by a certain deadline that addresses the issues identified by the Magistrate Judge or the case would proceed to trial. (Doc. #36.) The amended motion was filed, and once again the Magistrate Judge recommended denial of the motion.

The Magistrate Judge found that the parties failed to address what portion of the settlement was allocated to unpaid wages and

what portion was liquidated damages; failed to have all parties sign the settlement agreement; failed to explain the amount claimed in the Answers to Court's Interrogatories compared to the amount of the settlement; and the parties failed to provide the language for the full and final release. After conducting an independent examination of the file and upon due consideration of the Report and Recommendation, the Court accepts the Report and Recommendation of the magistrate judge. The parties will be provided one last opportunity to address all concerns articulated by the Magistrate Judge.

Accordingly, it is now

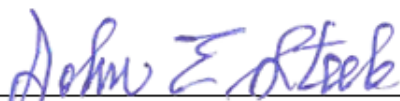
ORDERED:

1. The Report and Recommendation (Doc. #38) is hereby **adopted** and the findings **incorporated** herein.

2. The parties' Amended Joint Motion to Approve Settlement (Doc. #37) is **denied without prejudice**.

3. The parties may file a second amended joint motion **no later than May 3, 2019**, failing which the case will proceed to trial.

DONE and ORDERED at Fort Myers, Florida, this 8th day of April, 2019.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:

Hon. Mac R. McCoy

United States Magistrate Judge

Counsel of Record

Unrepresented parties