

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

OMAR ENCARNACION, individually
and on behalf of all others similarly
situated

Plaintiff,

v.

Case No: 2:17-cv-566-FtM-38CM

FINANCIAL CORPORATION OF
AMERICA,

Defendant.

_____ /

OPINION AND ORDER¹

Before the Court is United States Magistrate Judge Carol Mirando's Report and Recommendation. ([Doc. 41](#)). Judge Mirando recommends granting Plaintiff Omar Encarnacion's Motion for Class Certification Pursuant to FRCP 23. No party objects to the Report and Recommendation, and the time to do so has expired.

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.*


¹ Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

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

Accordingly, it is now **ORDERED**:

1. United States Magistrate Judge Carol Mirando's Report and Recommendation ([Doc. 41](#)) is **ACCEPTED and ADOPTED** and the findings incorporated herein.
2. Plaintiff's Motion for Class Certification ([Doc. 31](#)) is **GRANTED**.
 - a. The following class is **CERTIFIED**: All consumers in the State of Florida who were sent a L2N Collection Letter from Defendant Financial Corporation of America from October 16, 2016 to the present that attempted to collect an obligation owed to or allegedly owed to Lehigh Regional Medical Center.
 - b. Plaintiff Omar Encarnacion is **DESIGNATED** as the class representative and Yitzchak Zelman, Esq. of Marcus & Zelman, LLC is authorized to serve as class counsel.
3. The undersigned **REFERS** the matter of setting any deadlines, if needed, because of class certification.

DONE and **ORDERED** in Fort Myers, Florida on this 29th day of November 2018.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: United States Magistrate Judge Carol Mirando
All Parties of Record