

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

TMH MEDICAL SERVICES, LLC,

Plaintiff,

v.

Case No. 6:17-cv-920-Orl-37DCI

NATIONAL UNION FIRE
INSURANCE COMPANY OF
PITTSBURG, PA,

Defendant.

ORDER

Before the Court is Plaintiff TMH Medical Services, LLC's ("**TMH**") Motion for Leave to File an Amended and Supplemental Complaint. (Doc. 108 ("**Motion**").) TMH initiated this action on May 22, 2017, bringing claims for breach of contract and declaratory judgment related to an insurance policy Defendant issued to non-party Synuity that implicates TMH. (Doc. 1, ¶¶ 6-12.) TMH filed an Amended Complaint on July 6, 2017 (Doc. 16), and the Court issued its Case Management and Scheduling Order setting forth required deadlines for the parties (Doc. 23). Then, on the eve of the dispositive motions' deadline, TMH brought this Motion to add an additional claim for breach of an umbrella insurance policy ("**Umbrella Policy**"). (Doc. 108). Defendant opposes. (Doc. 119.) The Motion was referred to U.S. Magistrate Judge Daniel C. Irick for a Report and Recommendation, now before the Court. (Doc. 130 ("**R&R**").)

Magistrate Judge Irick's R&R recommends denying the Motion because: (1) TMH

failed to comply with Local Rule 3.01(g); (2) TMH's breach of contract claim is not covered under the Umbrella Policy; (3) even if the claim was covered under the Umbrella Policy, TMH failed to allege damages in excess of the primary policy, which is required to invoke Umbrella Policy coverage; and (4) there is no indication that TMH will suffer prejudice if the Motion is denied. (Doc. 130, pp. 3-6.)

No party objected to the R&R, and the time for doing so has now passed. Absent objections, the Court has examined the R&R only for clear error. *See Wiand v. Wells Fargo Bank, N.A.*, No. 8:12-cv-557-T-27EAJ, 2016 WL 355490, at *1 (M.D. Fla. Jan. 28, 2016); *see also Marcort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006). Finding no clear error, the Court concludes that the R&R is due to be adopted in its entirety. Thus, the Motion is due to be denied.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. U.S. Magistrate Judge Daniel C. Irick's Report and Recommendation (Doc. 130) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. Plaintiff TMH Medical Services, LLC's Motion for Leave to File an Amended and Supplemental Complaint (Doc. 108.) is **DENIED**.

DONE AND ORDERED in Chambers in Orlando, Florida, on June 29, 2018.




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record