UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

DONALD E. CLARK; and STACY L. CLARK,

Plaintiffs,

v. Case No. 6:18-cv-780-Orl-37KRS

ROCKHILL INSURANCE COMPANY,

Defendant.

ORDER

In the instant insurance dispute, Plaintiffs bring a breach of contract claim against Defendant, their insurer, for allegedly denying a claim following water damage to Plaintiffs' property. (Doc. 26.) Defendant answered and asserted a counterclaim for declaratory relief.[1] (Doc. 29, pp. 10–18.) Plaintiffs then moved to dismiss Defendant's counterclaim, now before the Court. (Doc. 33 ("**Motion**").) As Defendant responded (Doc. 38), the matter is ripe.

On referral, U.S. Magistrate Judge Karla R. Spaulding issued a report recommending denying the Motion. (Doc. 41 ("**R&R**").) She found: (1) a justiciable controversy plausibly exists regarding the insurance policy, despite issues of fact; and (2) Defendant's counterclaim does not seem to be entirely duplicative of Plaintiffs' claims.

[1] Defendant filed an amended answer following Magistrate Judge Spaulding's ruling on Plainitffs' motion to strike, but that amended answer did not change its counterclaim. (*See* Docs. 39, 40.)

(*Id.* at 6–14.) Thus, Magistrate Judge Spaulding found no reason to dismiss Defendant's counterclaim at this time. (*Id.* at 14.)

Neither party objected to the R&R, and the time for objecting has since passed. Absent objections, the Court has examined the R&R 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 Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006). Finding none, the Court concludes that the R&R is due to be adopted in its entirety.

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

1. U.S. Magistrate Judge Karla R. Spaulding's Report and Recommendation (Doc. 41) is **ADOPTED**, **CONFIRMED**, and made a part of this Order.
2. Plaintiffs' Motion to Dismiss Defendant's Counterclaim for Declaratory Relief for Failure to State a Cause of Action (Doc. 33) is **DENIED**.
3. The operative counterclaim in this action is included in Defendant Rockhill Insurance Company's Amended Answer and Affirmative Defenses to Plaintiffs' Second Amended Complaint and Incorporated Counterclaim (Doc. 40).

DONE AND ORDERED in Chambers in Orlando, Florida, on October 9, 2018.

ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record