

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

SOUTHERN HVAC CORPORATION;
and FAST OF FLORIDA, INC.,

Plaintiffs,

v.

Case No. 6:18-cv-1589-Orl-37TBS

ARIE KONFORTE; JUSTIN
KONFORTE; PHILIPA MACHIAL; and
JOSKO, LLC,

Defendants.

ORDER

In the instant action, following a hearing the Court granted Defendants' motion to dismiss Plaintiffs' sole federal claim and dismissed Plaintiffs' complaint for lack of subject matter jurisdiction. (Doc. 55.) Defendants then moved for attorney's fees. (Doc. 56 ("**Motion**").) On referral, U.S. Magistrate Judge Thomas B. Smith recommends denying the Motion because Defendants are not "prevailing parties." (Doc. 59 ("**R&R**").)

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 no such error, 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 Thomas B. Smith's Report and Recommendation

(Doc. 59) is **ADOPTED, CONFIRMED**, and made a part of this Order.

2. Defendants' Motion for Attorneys Fees (Doc. 56) is **DENIED**.

DONE AND ORDERED in Chambers in Orlando, Florida, on February 25, 2019.




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record