

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

KIARALIZ COLLAZO,

Plaintiff,

v.

Case No. 6:23-cv-114-RBD-RMN

EURO NAILS & SPA KISSIMMEE,
INC.,

Defendant.

ORDER

In this Fair Labor Standards Act (“FLSA”) putative collective action, the named Plaintiff and Defendant moved for approval of their settlement agreement and subsequently filed a notice consenting to the jurisdiction of the magistrate judge to handle the settlement approval. (Docs. 39, 41.) But prior to that notice, one additional opt-in plaintiff had filed a consent to join the putative collective; that opt-in plaintiff’s name was not listed on the consent to the magistrate judge. (Doc. 20; *see* Doc. 41.) So U.S. Magistrate Judge Robert M. Norway entered a Report and Recommendation advising that the Court should require the parties to file a new consent with the opt-in plaintiff’s signature added. (Doc. 49 (“R&R”).) The parties did not object—and indeed quickly filed a new consent with the opt-in plaintiff’s name in accordance with the R&R (Doc. 52)—so the Court examines the


R&R for clear error only. *See Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006). In the absence of clear error and given the lack of objection, the Court will adopt the R&R. *See* 28 U.S.C. § 636. That said, the Undersigned does not take the position that opt-in plaintiffs to a putative FLSA collective are required to affirmatively consent to the magistrate judge. *See Roell v. Withrow*, 538 U.S. 580, 590 (2003) (permitting a more flexible approach to accepting implied consent to a magistrate judge's jurisdiction); *Hipp v. Liberty Nat'l Life Ins. Co.*, 252 F.3d 1208, 1216 (11th Cir. 2001) (noting that once an individual opts into a 29 U.S.C. § 216(b) putative collective action they become a class member); *Day v. Persels & Assocs., LLC*, 729 F.3d 1309, 1316–17 (11th Cir. 2013) (holding that class members' consent is not required for magistrate judge jurisdiction under § 636 because they are then bound by the class representative's authority).

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

1. The R&R (Doc. 49) is **ADOPTED** in the absence of objection as set forth above.
2. In an abundance of caution, the Court will separately file an approval of the most recent consent (Doc. 52).

DONE AND ORDERED in Chambers in Orlando, Florida, on November 1, 2023.




ROY B. DALTON, JR.
United States District Judge