

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

GERARDO MORALES, and other  
similarly situated individuals,

Plaintiff,

v.

Case No.: 2:23-cv-390-SPC-KCD

STORM ROOFING AND  
CONSTRUCTION LLC and ELLIS  
C. WESTBY,

Defendants.

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**OPINION AND ORDER**

Before the Court is Plaintiff's Motion for Default Judgment (Doc. 59) and United States Magistrate Judge Kyle C. Dudek's Report and Recommendation (Doc. 60). Judge Dudek recommends that Plaintiff's motion be granted and that the Clerk be directed to enter judgment for Plaintiff in the amount of \$38,251. (Doc. 60). No party objected, so the matter is ripe for review.

After conducting a careful and complete review of the findings and recommendations, a district judge "may accept, reject, or modify, in whole or in part," a magistrate judge's Report and Recommendation. 28 U.S.C. § 636(b)(1)(C). In the absence of specific objections, there is no requirement that a district judge review the Report and Recommendation de novo. *See Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993). Instead, when

parties don't object, a district court need only correct plain error as demanded by the interests of justice. *See, e.g., Symonette v. V.A. Leasing Corp.*, 648 F. App'x 787, 790 (11th Cir. 2016); *Thomas v. Arn*, 474 U.S. 140, 150-52 (1985). Plain error exists if (1) "an error occurred"; (2) "the error was plain"; (3) "it affected substantial rights"; and (4) "not correcting the error would seriously affect the fairness of the judicial proceedings." *Farley v. Nationwide Mut. Ins.*, 197 F.3d 1322, 1329 (11th Cir. 1999).

After careful consideration and an independent review of the case, the Court finds no plain error. It accepts and adopts the Report and Recommendation in full.

Accordingly, it is now


**ORDERED:**

1. United States Magistrate Judge Kyle C. Dudek's Report and Recommendation (Doc. 60) is **ACCEPTED and ADOPTED** and the findings incorporated herein.
2. Plaintiff's Motion for Default Judgment (Doc. 59) is **GRANTED**.
3. The Clerk is **DIRECTED** to enter judgment in favor of Plaintiff in the amount of \$38,251. This amount reflects \$25,354 in damages (\$10,854 as to Count I; \$2,640 as to Count II; and \$13,360 as to Count III; less \$1,500 from a prior settlement) and \$12,897 in

attorney's fees and costs (\$17,397 less \$4,500 from a prior settlement).

4. The Clerk is also **DIRECTED** to deny any pending motions as moot, terminate any deadlines, and close the case.

**DONE** and **ORDERED** in Fort Myers, Florida on April 26, 2024.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies: All Parties of Record