

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CONTINENTAL INSURANCE
COMPANY and CONTINENTAL
CASUALTY COMPANY,

Plaintiffs,

v.

Case No.: 2:24-cv-556-SPC-KCD

VACUUM DIG ENTERPRISES,
INC.,

Defendant.

_____ /

OPINION AND ORDER

Before the Court is Plaintiffs' Motion for Entry of Default Judgment (Doc. 14) and United States Magistrate Judge Kyle C. Dudek's Report and Recommendation (Doc. 15). Judge Dudek recommends that Plaintiffs' Motion be granted. 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," the 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. 15) is **ACCEPTED and ADOPTED**, and the findings incorporated herein.
2. Plaintiffs’ Motion for Default Judgement is **GRANTED** as to Count I (breach of contract) and Count IV (violating Fla. Stat. § 68.065).
3. Counts II and III are deemed abandoned.
4. The Clerk is **DIRECTED** to enter judgment for Plaintiffs in the amount of \$145,855.60 for Count I, plus prejudgment interest at \$18.98 per day from November 22, 2022, through the date of judgment, as well as \$206,448.04 for Count IV.

5. Plaintiffs' request for attorney's fees and costs is **DENIED without prejudice**. Plaintiffs may file a motion seeking such relief with sufficient supporting documentation pursuant to Local Rule 7.01.

DONE and ORDERED in Fort Myers, Florida on December 2, 2024.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record