

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA,
ex rel and BRIDGETE COBB,
an individual,

Plaintiffs,

v.

Case No: 2:17-cv-631-JES-MRM

VEIN SPECIALISTS AT ROYAL
PALM SQUARE, INC., a
Florida corporation and
JOSEPH G. MAGNANT, an
individual,

Defendants.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #41), filed July 2, 2021, recommending that the Joint Motion to Approve Settlement Agreement and Dismiss the Case With Prejudice (Doc. #38) be granted in part and denied in part, that the Supplemental Joint Motion to Approve Settlement Agreement and Dismiss the Case With Prejudice (Doc. #40) be denied as moot, and the case dismissed with prejudice. No objections have been filed and the time to do so has expired.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify the magistrate judge's report and recommendation. 28 U.S.C. §

636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo*, Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. See Cooper-Houston v. Southern Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); Castro Bobadilla v. Reno, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), aff'd, 28 F.3d 116 (11th Cir. 1994) (Table).

After the initial motion was filed, the Magistrate Judge directed the parties to file supplemental briefing, including a statement as to the number of hours and amount of lost wages that plaintiff alleges she is owed and to in turn address why the settlement is fair and reasonable in light these details. (Doc. #39.) The parties filed the supplemental motion, and the report and recommendations were issued. Considering the nature of the case, and at the request of the Magistrate Judge, doc. #42, the government filed a Notice Regarding Consent to Settlement (Doc. #43) consenting to the abandonment of the claims under the False Claims Act.

The Magistrate Judge found a bona fide dispute was present and recommended that the monetary terms be approved, and that the

amount of attorney's fees and costs, negotiated separately, be approved as fair and reasonable. (Doc. #41, pp. 4-7.) As to the non-cash concessions, the Magistrate Judge recommended that the waiver and release and waiver of a jury trial were fair and reasonable, but that the modification of agreement provision be deemed invalid and stricken.

After conducting an independent examination of the file and upon due consideration of the Report and Recommendation, the Court accepts the Report and Recommendation of the magistrate judge.

Accordingly, it is now

ORDERED:

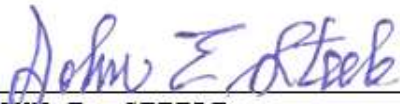
1. The Report and Recommendation (Doc. #41) is hereby **adopted** and the findings incorporated herein.

2. The parties' Joint Motion to Approve Settlement Agreement and Dismiss the Case With Prejudice (Doc. #38) is **GRANTED in part and DENIED in part**. Paragraph 12 (Modification of Agreement) of the Settlement Agreement (Doc. #38, Exh. A) is **stricken**, and the remainder of the Settlement Agreement is approved as a fair and reasonable resolution of a bona fide dispute regarding plaintiff's FLSA claim.

3. The parties' Supplemental Joint Motion to Approve Settlement Agreement and Dismiss the Case With Prejudice (Doc. #40) is **DENIED as moot**.

4. The Clerk shall enter judgment dismissing the case, terminate all pending motions and deadlines, and close the file.

DONE and ORDERED at Fort Myers, Florida, this 21st day of July 2021.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:
Hon. Mac R. McCoy
United States Magistrate Judge

Counsel of Record
Unrepresented parties