

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Judge Philip A. Brimmer**

Civil Action No. 11-cv-02919-PAB-MEH

AMERICAN PRODUCE, LLC, a limited liability company,

Plaintiff,

v.

FELIX RIVERA VARGAS, an individual, a/k/a Felix Rivera,  
JOHN M. LUNA, an individual, and  
RICARDO FELIX RIVERA, an individual, a/k/a Ricardo Felix,

Defendants.

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**ORDER ACCEPTING MAGISTRATE JUDGE'S RECOMMENDATION**

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This matter is before the Court on the Recommendation of United States Magistrate Judge Michael E. Hegarty filed on April 24, 2012 [Docket No. 34]. The Recommendation states that objections to the Recommendation must be filed within fourteen days after its service on the parties. See 28 U.S.C. § 636(b)(1)(C). The Recommendation was served on April 27, 2012. No party has objected to the Recommendation.

In the absence of an objection, the district court may review a magistrate judge's recommendation under any standard it deems appropriate. See *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“[i]t does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings”). In this matter, the Court has reviewed the

Recommendation to satisfy itself that there is “no clear error on the face of the record.”<sup>1</sup>  
Fed. R. Civ. P. 72(b), Advisory Committee Notes. Based on this review, the Court has  
concluded that the Recommendation is a correct application of the facts and the law.  
Accordingly, it is

**ORDERED** as follows:

1. The Recommendation of United States Magistrate Judge [Docket No. 34] is  
ACCEPTED.

2. Plaintiff’s Motion for Entry of Default Judgment Against Defendants John M.  
Luna and Ricardo Felix Rivera a/k/a Ricardo Felix [Docket No. 17] is GRANTED IN  
PART AND DENIED IN PART as follows:

Upon entry of final judgment in this case, judgment shall be entered in favor  
of plaintiff American Produce, LLC, and against defendant John M. Luna for the  
principal sum of \$59,468.25, pre-judgment finance charges calculated at the rate of  
1.5% per month through February 13, 2012 in the cumulative amount of \$7,880.93, pre-  
judgment finance charges beginning on February 14, 2012 and continuing through the  
date judgment is entered at the rate of \$29.33 per day, costs in the amount of \$490.00,  
attorney’s fees in the amount of \$4,540.00, and post-judgment finance charges at the  
rate specified in 28 U.S.C. § 1961 until the total amount is satisfied.

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<sup>1</sup>This standard of review is something less than a “clearly erroneous or contrary  
to law” standard of review, Fed. R. Civ. P. 72(a), which in turn is less than a de novo  
review. Fed. R. Civ. P. 72(b).

DATED May 18, 2012.

BY THE COURT:

s/Philip A. Brimmer  
PHILIP A. BRIMMER  
United States District Judge