

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

WALFREDO IZNAGO FERNANDEZ,
individually and on behalf of all
other persons similarly situated,
ANDRES HERNANDEZ, individually and
on behalf of all other persons
similarly situated, EIDA ARMENTEROS,
individually and on behalf of all
other persons similarly situated,

Plaintiff,

vs.

Case No. 2:11-cv-509-FtM-99SPC

HARVARD MAINTENANCE, INC., HERNA
COMPLETE SERVICES, INC.,

Defendants.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #16), filed December 14, 2011, recommending that plaintiffs' Renewed Motion for Preliminary Approval of Collective Action Settlement (Doc. #15) be granted in part and denied in part. 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)(C). 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 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. #16) is hereby **adopted** and the findings incorporated herein.

2. The Renewed Joint Motion for Preliminary Approval of Collective Action Settlement (Doc. #15) is **granted in part and denied in part** as follows:

A. The request for preliminary approval is **approved** pending finalization and notice to opt-in plaintiffs regarding the proposed Agreement and Release;

B. A collective action is conditionally certified as:

Former and current non-exempt employees of the Defendants who were employed by Defendants during the month of July 2011 to provide janitorial services to Lee County School District's facilities.

C. The Plaintiffs, Walfredo Iznaga Fernandez, Andres Hernandez, and Eida Armenteros are appointed as the collectives representatives;

D. Plaintiffs are authorized to issue the Notice of Confidential Settlement of Collective Action (Doc. #15-4) by U.S. Mail;


E. Notices shall be sent by **on or before January 15, 2012;**

F. Potential opt-in plaintiffs shall have **up to and including March 16, 2012,** to return their Notices, and Claim Form and Release, accepting or rejecting the terms of the proposed agreement;

G. The parties shall file a motion for approval of the Agreement and Release **on or before March 30, 2012;** and

H. The Court will conduct a fairness hearing to discuss any objections that may arise from the collective class on **Monday, April 23, 2012, at 10:00 a.m.** before the undersigned in Courtroom A, Sixth Floor, U.S. Courthouse and Federal Building, Fort Myers, Florida. Plaintiffs will be responsible for notifying all opt-in plaintiffs of this date, time, and place for the hearing.

DONE AND ORDERED at Fort Myers, Florida, this 30th day of December, 2011.



JOHN E. STEELE
United States District Judge

Copies:

Hon. Sheri Polster Chappell
United States Magistrate Judge

Counsel of Record
Unrepresented parties