

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

OSCAR MOJICA, on behalf of himself  
and all others similarly situated,

Plaintiff,

vs.

Case No. 2:12-cv-89-FtM-29SPC

BLACKSTONE REAL ESTATE ACQUISITIONS  
IV LLC, a foreign limited liability  
company, WHM LLC, a foreign limited  
liability company doing business as  
LUXURY RESORTS,

Defendants.

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**OPINION AND ORDER**

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #21), filed September 4, 2012, recommending that the Joint Motion to Approve Confidential Settlement Agreement and Joint Motion to Dismiss With Prejudice (Doc. #20) be granted, the settlement approved, and the case dismissed as to defendant WHM, LLC only. No objections have been filed and the time to do so has expired.

Also before the Court is defendants' Motion to Drop Defendant Blackstone Real Estate Acquisitions IV L.L.C. As a Party (Doc. #13) filed on June 18, 2012. No response was filed and the later filed settlement does not include this defendant. Defendants state that Blackstone Real Estate Acquisitions IV LLC (Blackstone) was not properly named as a defendant because it was not and has never been plaintiff's employer for purposes of FLSA. Defendant WHM LLC

acknowledges its employment relationship with plaintiff and states that the case may proceed as to WHM LLC and no prejudice would occur if Blackstone is dropped as a party. Counsel represents both defendants. In support, Joseph Palmer has submitted an Affidavit (Doc. #13) as the Area Director of Human Resources for WHM LLC stating that WHM LLC is the entity responsible for hiring, management, and supervision of all employees since July 2006, and plaintiff was an employee of WHM LLC from August 19, 2009 until his resignation on January 20, 2012. Under Federal Rule of Civil Procedure 21, the Court may add or drop a party. The motion will be granted.

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. Defendants' Motion to Drop Defendant Blackstone Real Estate Acquisitions IV L.L.C As a Party (Doc. #13) is **granted** and Blackstone Real Estate Acquisitions IV LLC is dropped as a party-defendant. The Clerk shall terminate this defendant on the docket.

2. The Report and Recommendation (Doc. #21) is hereby **adopted** and the findings incorporated herein.

3. The Joint Motion to Approve Confidential Settlement Agreement and Joint Motion to Dismiss With Prejudice (Doc. #20) is **granted** and the settlement is **approved** as fair and reasonable.

3. The Clerk shall enter judgment **dismissing** the case with prejudice as to WHM LLC, terminate all deadlines and motions, and close the file.

**DONE AND ORDERED** at Fort Myers, Florida, this 20th day of September, 2012.

  
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**JOHN E. STEELE**  
United States District Judge

Copies:  
Hon. Sheri Polster Chappell  
United States Magistrate Judge  
Counsel of Record