

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

MOLLY WRIGHT, TRISHA BREMER,  
SHAWN FISHER, KIMBERLY FISHER,  
ANGELA MCDOUGALL, THOMAS  
PATTERSON, MICHAEL PIASECKI,  
CHRIS A. WIGLESWORTH and  
DOROTHY WILLIS, on behalf of  
themselves and all others similarly  
situated

Plaintiffs,

v.

Case No: 2:15-cv-249-FtM-38MRM

DYCK-O'NEAL, INC. and LAW  
OFFICES OF DANIEL C.  
CONSUEGRA, P.L.,

Defendants.

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**ORDER**<sup>1</sup>

This matter comes before the Court on United States Magistrate Judge Mac R. McCoy's Report and Recommendation ([Doc. #68](#)) filed on June 27, 2016. Judge McCoy recommends granting Defendant Dyck O'Neal, Inc.'s Motion to Deny Class Certification ([Doc. #56](#)) and Defendant Law Offices of Daniel C. Consuegra's Motion to Deny Class Certification ([Doc. #58](#)). Pertinently, Judge McCoy has construed Defendants' motions to be motions to strike the class allegations in the Complaint because no motion for class certification has been filed and thus, there is no pending request to certify a class for the

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Court to deny. ([Doc. #68 at 2](#)). Neither party has filed an objection to the Report and Recommendation, and the time to do so has expired. Thus, the Report and Recommendation is ripe for review.

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. See [28 U.S.C. § 636\(b\)\(1\)](#); see also *Williams v. Wainwright*, [681 F.2d 732 \(11th Cir. 1982\)](#). 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 \(11th Cir. 1994\)](#).

After independently examining the file and upon carefully considering Judge McCoy's findings and recommendations, the Court accepts the Report and Recommendation ([Doc. #68](#)).

Accordingly, it is now


**ORDERED:**

- (1) The Report and Recommendation ([Doc. #68](#)) is **ACCEPTED and ADOPTED** and the findings incorporated herein.
- (2) Defendant Dyck O'Neal, Inc.'s Motion to Deny Class Certification ([Doc. #56](#)), construed as a motion to strike the class allegations in the Complaint, is **GRANTED**.

(3) Defendant Law Offices of Daniel C. Consuegra's Motion to Deny Class Certification ([Doc. #58](#)), construed as a motion to strike the class allegations in the Complaint, is **GRANTED**.

(4) The class allegations in the Complaint ([Doc. #1](#)) are **STRICKEN**.

**DONE** and **ORDERED** in Fort Myers, Florida this 18th day of July 2016.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record