

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

COREY DESIMONI and JAMES
REITER, individually and on behalf of all
similarly situated,

Plaintiffs,

v.

Case No: 2:15-cv-366-FtM-38CM

TBC CORPORATION,

Defendant.

OPINION AND ORDER¹

This matter comes before the Court on consideration of United States Magistrate Judge Carol Mirando's Report and Recommendation ([Doc. 177](#)), filed on September 5, 2017, recommending that the parties' Joint Motion to Lift Stay, Approve Settlement and for Dismissal ([Doc. 176](#)) be granted, the parties' Settlement Agreement ([Doc. 176-1](#)) be approved, and the case dismissed with prejudice. Judge Mirando also recommends that the Court dismiss Opt-In Plaintiffs James Barger and Rex Earls as they have withdrawn their consent to join this collective action. ([Doc. 173](#); [Doc. 174](#)). The parties filed a Joint Notice of Non-Objection ([Doc. 178](#)) on September 6, 2017.

¹ Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

A district judge “may accept, reject, or modify in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). The district judge “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* And “[t]he judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*


After examining the file carefully and independently, and upon considering Judge Mirando’s findings and recommendations, the Court accepts and adopts the Report and Recommendation.

Accordingly, it is now

ORDERED:

- (1) The Report and Recommendation ([Doc. 177](#)) is **ACCEPTED and ADOPTED** and the findings incorporated herein.
- (2) Opt-In Plaintiffs James Barger and Rex Earls are dismissed from this action **without prejudice**.
- (3) The Joint Motion to Approve Settlement and Dismiss with Prejudice ([Doc. 176](#)) is **GRANTED** and the Settlement Agreement ([Doc. 176-1](#)) is **APPROVED**. This action is **DISMISSED with prejudice**.
- (4) The Clerk is **DIRECTED** to enter lift the stay of this matter and thereafter enter judgment accordingly, terminate any pending deadlines and motions, and close the file.

DONE and **ORDERED** in Fort Myers, Florida this 18th day of September, 2017.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record