

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

KAREN CAMPBELL, on her
behalf and on behalf of
those similarly situated,

Plaintiff,

v.

Case No: 2:15-cv-695-FtM-99MRM

PINCHER'S BEACH BAR GRILL
INC.,

Defendant.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #68), filed August 24, 2017, recommending that the parties' Joint Motion for Approval of Settlement Agreement and Entry of an Order of Dismissal With Prejudice (Doc. #59) be granted and their settlement be approved, that the Court retain jurisdiction for a period of time with regard to one opt-in plaintiff, and that the case otherwise be dismissed. On the same day, the parties filed a Joint Notice of Non-Objection (Doc. #69) to the Report and Recommendation.

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).

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). 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).

The Magistrate Judge directed the parties to brief the issue of whether a final determination as to certification of the class was required before a settlement could be approved. After review of the parties' Joint Supplemental Brief (Doc. #65), it was determined that review and approval was appropriate. The Magistrate Judge further required signatures of the opt-in plaintiffs to confirm that they were in fact afforded the ability to consider the terms of the settlement, and signed agreements were provided with the exception of Elizabeth Sellers who is deceased. The Magistrate Judge was satisfied that plaintiffs were afforded the ability to object, and that they did not object. As to Ms. Sellers, efforts will be made to provide her share of the settlement proceeds to her estate or appropriate heir.

After due consideration of the Report and Recommendation, the Court accepts the Report and Recommendation of the Magistrate Judge. The Court will retain jurisdiction for a period of time to allow counsel to identify the heirs of Ms. Sellers, and defer the entry of judgment until expiration of this time period.

Accordingly, it is now

ORDERED:

1. The Report and Recommendation (Doc. #68) is hereby **adopted** and the findings **incorporated** herein.

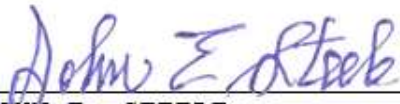
2. The parties' Joint Motion for Approval of Settlement Agreement and Entry of an Order of Dismissal With Prejudice (Doc. #59) is **granted** and the Settlement Agreement and Release of Claims (Doc. #59-1) is approved as a fair and reasonable resolution of a bona fide dispute.

3. Counsel for plaintiffs shall identify any heirs or successors or assignees of Ms. Sellers within **SIXTY (60) DAYS** of this Opinion and Order. If counsel is unable to do so, Ms. Sellers' share of the settlement proceeds shall be returned to defendant through defendant's counsel.

4. The Clerk shall terminate all deadlines and motions, and administratively close the case for a period of **NINETY (90) DAYS** from the date of this Opinion and Order. Upon expiration of this

period of time, the Clerk will be directed to enter judgment dismissing the case with prejudice and to close the file.

DONE and ORDERED at Fort Myers, Florida, this 25th day of August, 2017.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:
Hon. Mac R. McCoy
United States Magistrate Judge

Counsel of Record
Unrepresented parties