

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

GEORGE BAKER, an individual,

Plaintiff,

v.

Case No: 2:17-cv-57-FtM-99MRM

NAPLES URGENT CARE, PL, a
Florida limited liability
company and ROBERT MCGANN,
an individual,

Defendants.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #33), filed June 26, 2017, recommending that that the Joint Motion to Approve Settlement and to Dismiss With Prejudice (Doc. #32) be denied without prejudice. 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). 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 recommends denial because numerous issues preclude a finding of fairness and reasonableness. More specifically, the Settlement Agreement Pursuant to the Fair Labor Standards Act (Doc. #32-1) fails to delineate what portion of the proceeds is attributable to back wages, and what portion constitutes liquidated damages. Further, the parties failed to specify the amount of fees to be paid to counsel for plaintiff, yet included language that counsel would otherwise bear their own costs and attorneys' fees. Lastly, the Magistrate Judge noted that there was no rationale provided for plaintiff's recovery to be reduced if defendant Baker pays by the end of the year. The recommendation was for denial without prejudice to the parties electing an option to either file an amended motion, or a Case Management Report no later than August 11, 2017.

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. #33) is hereby **adopted** and the findings **incorporated** herein.

2. The parties' Joint Motion to Approve Settlement and to Dismiss With Prejudice (Doc. #32) is **denied without prejudice** to the parties electing an option and complying **no later than August 11, 2017**.

DONE and ORDERED at Fort Myers, Florida, this 12th day of July, 2017.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

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

Counsel of Record
Unrepresented parties