

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

MAYKOL POZO and MICHAEL
BUTLER, individually, and on behalf of
all others similarly situated,

Plaintiffs,

v.

Case No: 2:17-cv-170-FtM-99MRM

DIRECT HEATING & COOLING,
INC. and MITZIE FOX-LERNER,

Defendants.

OPINION AND ORDER¹

This matter comes before the Court on review of United States Magistrate Judge Mac R. McCoy's Report and Recommendation ([Doc. 23](#)), recommending that the parties' Joint Motion to Approve Settlement and Dismiss With Prejudice ([Doc. 22](#)) be denied without prejudice because the settlement agreements contain waiver and general release language. No objections have been filed and the time to do so has expired.

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

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may also receive further evidenced or recommit the matter to the magistrate judge with instructions.” *Id.*

This is the second time that the parties’ Settlement Agreements and General Releases were not recommended for approval based on the presence of a waiver and general release without evidence of any additional consideration. See Docs. 20, 21. Once again, after conducting an independent examination of the file and upon due consideration of the Report and Recommendation, the Court accepts the Report and Recommendation and denies the request for settlement approval without prejudice. Failure to file settlement agreements that comport with the Magistrate Judge’s Report and Recommendation could result in the Court finding that a settlement has not been reached and the case will proceed through normal litigation.

Accordingly, it is now

ORDERED:

(1) The Report and Recommendation (Doc. 23) is **accepted and adopted** and its findings incorporated herein.

(2) The parties’ Joint Motion to Approve Settlement and Dismiss With Prejudice (Doc. 22) is **DENIED WITHOUT PREJUDICE** to the parties exercising one of the two options provided in the Report and Recommendation, **on or before November 17, 2017.**

DONE and **ORDERED** in Fort Myers, Florida this 25th day of October, 2017.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies:
United States Magistrate Judge Mac R. McCoy
All Parties of Record