

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

TODD ERLING, on behalf of
himself and others similarly
situated,

Plaintiff,

v.

Case No: 2:17-cv-350-FtM-29MRM

AMERICAN GRILLE WITH SUSHI
LLC, a Florida profit
corporation and CHRIS K.
WHITAKER, individually,

Defendants.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #78), filed July 30, 2019, recommending that the Third Amended Joint Motion to Approve Settlement (Doc. #77) be denied and the case placed on the calendar for trial. 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).

This case has a long history of failing to demonstrate "no compromise" despite all efforts by the parties to argue otherwise. In this latest iteration, the parties indicate that plaintiff realized at his deposition in 2017 that he was only seeking compensation for 10 hours of overtime. Yet, no effort was made to conform the pleadings, or to amend the sworn interrogatories filed with the Court. Even if plaintiff had realized this simple fix, the parties failed to address concerns over the lack of consideration for the general release. 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:

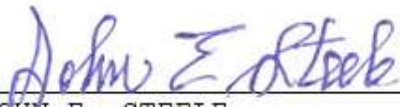
1. The Report and Recommendation (Doc. #78) is hereby **adopted** and the findings **incorporated** herein.

2. The parties' Third Amended Joint Motion to Approve Settlement (Doc. #77) is **denied**.

3. The following deadlines shall apply for the remainder of the case, and a separate notice will issue:

Meeting <i>In Person</i> to Prepare Joint Final Pretrial Statement	November 8, 2019
Joint Final Pretrial Statement	November 8, 2019
All Other Motions Including Motions <i>In Limine</i>	October 25, 2019
Final Pretrial Conference	November 18, 2019, at 9:00 am before the undersigned
Trial Term (Jury, 2-3 days)	December 2, 2019

DONE and ORDERED at Fort Myers, Florida, this 16th day
of August, 2019.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

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

Counsel of Record
Unrepresented parties