

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

LAUREN MCFALLS, individually,
and on behalf of all others similarly
situated and the Proposed Rule 23
Class,

Plaintiff,

v.

Case No.: 2:23-cv-572-SPC-KCD

NCH HEALTHCARE SYSTEM,
INC. and NAPLES COMMUNITY
HOSPITAL, INC.,

Defendants.

OPINION AND ORDER

Before the Court are Plaintiff Lauren McFalls' Motion for Class Certification (Doc. 94) and United States Magistrate Judge Kyle C. Dudek's Report and Recommendation ("R&R") (Doc. 121). Judge Dudek recommends granting the motion in part and denying it in part. No party objected, so the matter is ripe for review.

After conducting a careful and complete review of the findings and recommendations, a district judge "may accept, reject, or modify, in whole or in part," a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1)(C). In the absence of specific objections, there is no requirement that a district judge review the report and recommendation de novo. *See*

Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993). Instead, when parties don't object, a district court need only correct plain error as demanded by the interests of justice. See, e.g., *Symonette v. V.A. Leasing Corp.*, 648 F. App'x 787, 790 (11th Cir. 2016); *Thomas v. Arn*, 474 U.S. 140, 150-52 (1985). Plain error exists if (1) "an error occurred"; (2) "the error was plain"; (3) "it affected substantial rights"; and (4) "not correcting the error would seriously affect the fairness of the judicial proceedings." *Farley v. Nationwide Mut. Ins.*, 197 F.3d 1322, 1329 (11th Cir. 1999).

After careful consideration and an independent review of the case, the Court finds no plain error. It accepts and adopts the R&R in full.

Accordingly, it is now

ORDERED:

1. Judge Dudek's Report and Recommendation (Doc. 121) is **ACCEPTED and ADOPTED**, and the findings incorporated herein.
2. Plaintiff's Motion for Class Certification (Doc. 94) is **GRANTED IN PART and DENIED IN PART**:
 - a. Plaintiff's request to certify a class under FDUTPA of "[a]ll nurses who are or were subject to NCH's Specialty Fellowship Program Employment Agreement and the training repayment provisions therein at any point from July 31, 2019, through" the date of certification is **GRANTED**;

- b. Plaintiff's request to certify the same class under Florida's Declaratory Judgment Act is **DENIED**;
- c. the Court appoints Nichols Kaster, PLLP, Towards Justice, and Varnell & Warwick as class counsel to represent the certified class; and
- d. Plaintiff's motion is **DENIED** to the extent it seeks any further relief.

3. **On or before March 12, 2025**, Plaintiff must file a new notice consistent with the final class as certified.

DONE AND ORDERED in Fort Myers, Florida on March 5, 2025.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record