

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

SABAL TRAIL TRANSMISSION, LLC,

Plaintiff,

v.

Case No: 6:16-cv-470-Orl-41DAB

**3.857 ACRES OF LAND IN OSCEOLA
COUNTY FLORIDA, BAOR, INC. and
UNKNOWN OWNERS, IF ANY,**

Defendants.

ORDER

THIS CAUSE is before the Court on Defendant BAOR, Inc.’s (“BAOR”) Unopposed Motion to Withdraw Funds from the Court Registry (Doc. 36). U.S. Magistrate Judge Baker submitted a Report and Recommendation (the “R&R,” Doc. 38), which recommends that the motion be denied in accordance with a similar Order entered by U.S. District Judge Dalton in a related case—*Sabal Trail Transmission, LLC v. 2.769 Acres of Land in Osceola County*, No. 6:16-cv-460-Orl-37DAB (M.D. Fla. June 17, 2016) (Doc. 46). BAOR objected to the R&R. (*See* Obj., Doc. 39).

A district court is required to review *de novo* the objected-to portions of a magistrate judge’s recommendation and “may accept, reject, or modify, in whole or in part” the recommendation. 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). Moreover, a district court may “receive further evidence or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1).

Here, the Court agrees with the well-reasoned R&R, which—vicariously, through an Order in a related case—found BAOR’s motion to be lacking. Rather than filing an amended motion,

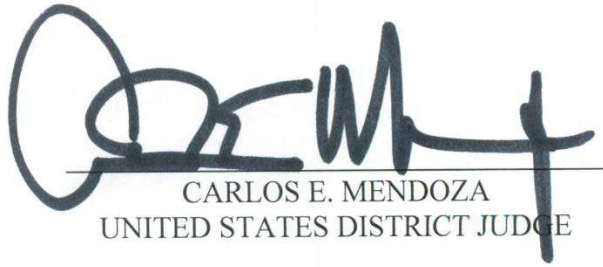
BAOR attempts to augment its initial motion by including within its objection to the R&R additional, clarifying argument and evidence. In lieu of recommitting the matter to the magistrate judge for consideration of the new argument and evidence, the Court will address BAOR's supplementation.

In doing so, the Court agrees with BAOR that the plain language of Federal Rule of Civil Procedure 71.1(j)(2) contemplates a pre-award distribution. (*See* Obj at 3–4 (noting that the Rule's second and third sentences set forth a procedure for where the post-distribution award varies from the prior distribution)). Additionally, the Court is satisfied that, in agreeing to deposit the funds into the Court registry, the parties contemplated a pre-award distribution. (*See id.* at 4–6; *Dancaescu Aff.*, Ex. A to Obj., Doc. 39-3, ¶¶ 4–8). Therefore, BAOR's motion will be granted.

Accordingly, it is **ORDERED** and **ADJUDGED** as follows:

1. The Report and Recommendation (Doc. 38) is rejected.
2. Defendant BAOR, Inc.'s Unopposed Motion to Withdraw Funds From the Court Registry (Doc. 36) is **GRANTED**.
3. The Clerk is directed to disburse the principal amount deposited into the Registry of the Court in the amount of \$1,500,000.00, along with accrued interest, subject to an administrative handling fee, to the GrayRobinson P.A. Trust Account. Such disbursement shall be made by check payable to the GrayRobinson P.A. Trust Account and mailed to GrayRobinson P.A. Trust Account, c/o Kent L. Hipp, Esq., P.O. Box 3068, Orlando, Florida 32802-3068.

DONE and **ORDERED** in Orlando, Florida on August 4, 2016.



CARLOS E. MENDOZA
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record