

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

CHARLES CRABLE,

Plaintiff,

v.

Case No. 6:16-cv-1825-Orl-37TBS

PREMIER BATHS, INC.; and BILL
KELLY,

Defendants.

ORDER

Plaintiff initiated this action against Defendants alleging, among other things, that they failed to pay him minimum and overtime wages in violation of the Fair Labor Standards Act (“FLSA”). (Doc. 1.) Defendant Bill Kelly (“**Mr. Kelly**”) answered the Amended Complaint (Doc. 23), and Defendant Premier Baths, Inc. (“**Premier**”) has yet to appear. On October 5, 2017, Plaintiff and Mr. Kelly jointly moved for approval of a settlement agreement pursuant to *Lynn’s Food Stores, Inc. v. United States ex rel. United States Department of Labor*, 679 F.2d 1350 (11th Cir. 1982). (Doc. 37, pp. 1-4 (“**Approval Motion**”); *see also id.* at 6-12 (“**Agreement**”).) On referral, U.S. Magistrate Judge Thomas B. Smith recommends that the Court deny the Approval Motion and reject the Agreement. (Doc. 38 (“**R&R**”).)

In his R&R, Magistrate Judge Smith concludes that the Agreement—the totality of which contains only mutual releases between Plaintiff and Mr. Kelly—raised more questions than it answered. (*See* Doc. 38, pp. 3-6.) In particular, the Court cannot perform

a fairness analysis because the Agreement: (1) provides an insufficient explanation for why Plaintiff is not receiving a monetary award; (2) proposes releases that are overly broad, providing no basis to assess their value; (3) purports to create jurisdiction in this Court by stipulation; and (4) attempts to settle *all* of Plaintiff's claims even though Premier, an alleged jointly-liable defendant, is not a party to it. (*Id.*)

The parties did not object to the R&R, and the time for doing so has now passed. In the absence of objections, the Court has reviewed the R&R only for clear error. *See Wiand v. Wells Fargo Bank, N.A.*, No. 8:12-cv-557-T-27EAJ, 2016 WL 355490, at *1 (M.D. Fla. Jan. 28, 2016); *see also Marcort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006). Finding no clear error, the R&R is due to be adopted in its entirety.

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

1. U.S. Magistrate Judge Thomas B. Smith's Report and Recommendation (Doc. 38) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. The Joint Motion for Approval of Settlement Agreement and Incorporated Memorandum of Law (Doc. 37, pp. 1-4) is **DENIED**.
3. The Settlement Agreement (Doc. 37, pp. 6-12) is **REJECTED**.
4. On or before Monday, **November 6, 2017**, the parties are **DIRECTED** to file a renewed motion for approval of a proposed FLSA settlement agreement that remedies the deficiencies identified in the R&R.

DONE AND ORDERED in Chambers in Orlando, Florida, on October 24, 2017.




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record