

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

HALLMARK INSURANCE  
COMPANY,

Plaintiff,

v.

Case No. 6:16-cv-2063-Orl-37GJK

MAXUM CASUALTY INSURANCE  
COMPANY,

Defendant.

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**ORDER**

This matter is before the Court on Plaintiff's Motion to Strike Defendant, Maxum Insurance Company's Affirmative Defenses (Doc. 54 ("**Motion**")), Defendant's Response in Opposition to Hallmark's Motion to Strike Its Affirmative Defenses and Incorporated Memorandum of Law (Doc. 58 ("**Response**")), and U.S. Magistrate Judge Gregory J. Kelly's Report and Recommendation that the Motion should be granted in part and denied in part (Doc. 65 ("**R&R**")). No party objected to the R&R, and the time to do so passed on July 14, 2017.

**DISCUSSION**

When written objections to the proposed findings and recommendations in a magistrate judge's report and recommendation are filed, the district court must make a de novo determination of the portions of the report to which an objection is made. 28 U.S.C. § 636(b)(1). But when the litigants fail to file specific objections to the magistrate's factual findings, the district court reviews the report and recommendation

for clear error – not under the stricter de novo standard of review. See *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993); *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) (“Most circuits agree that in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”). Ultimately, the district court “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)(C).

In the absence of objections, the Court has reviewed the R&R for clear error. In doing so, the Court finds that the thoughtful findings and recommendations set forth in the thorough R&R are correct. As such, the R&R is due to be adopted in its entirety.

#### CONCLUSION

Upon consideration, **IT IS ORDERED** that:

- (1) U.S. Magistrate Judge’s Report and Recommendation (Doc. 65) is **ADOPTED, CONFIRMED**, and made part of this Order.
- (2) Plaintiff’s Motion to Strike Defendant, Maxum Insurance Company’s Affirmative Defenses (Doc. 54) is **GRANTED IN PART AND DENIED IN PART**. The Motion is **GRANTED** with respect to Defendant’s seventh, eleventh, and twenty-third affirmative defenses, and the Motion is otherwise **DENIED**.
- (3) Defendant’s seventh, eleventh, and twenty-third affirmative defenses are

**STRICKEN.**

- (4) On or before **August 31, 2017**, Defendant may replead its stricken affirmative defenses.

**DONE AND ORDERED** in Orlando, Florida, this 17th day of July, 2017.



  
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ROY B. DALTON JR.  
United States District Judge

Copies to:

Counsel of Record