

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

ELECTROSTIM MEDICAL SERVICES,  
INC.,

Plaintiff,

v.

Case No. 8:11-cv-2467-T-33TBM

DAWN LINDSEY and ZYNEX MEDICAL,  
INC.,

Defendants.

---

**ORDER**

This cause comes before the Court pursuant to the March 13, 2012, report and recommendation of Thomas B. McCoun III, United States Magistrate Judge (Doc. # 76), in which Judge McCoun recommends that Plaintiff's Motion for Preliminary Injunction (Doc. # 18) be granted. Judge McCoun conducted a hearing on the motion on February 9, 2012. (Doc. # 57). Each Defendant filed timely objections to the Report and Recommendation on April 10, 2012. (Doc. ## 81, 82). Plaintiff filed a response in opposition to Defendants' objections on April 19, 2012. (Doc. # 83).

After careful consideration and being fully advised in the premises, the Court adopts the Report and Recommendation of the Magistrate Judge and overrules the filed objections.

## Discussion

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, 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)(C). The district judge reviews legal conclusions de novo, even in the absence of an objection. See Cooper-Houston v. S. 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).

Upon due consideration of the entire record, including the Report and Recommendation, the objections and the response, the Court overrules the objections, adopts the Report and Recommendation and grants the Motion for Preliminary Injunction. The Court agrees with Judge McCoun's detailed and well-reasoned findings of fact and conclusions of law. As correctly pointed out by Plaintiff, Defendants "largely ignore[] the Magistrate's careful and detailed


findings and, instead, repeat[] the same arguments . . . previously made that were considered and rejected in the R&R." (Doc. # 83 at 2). The Report and Recommendation thoughtfully addresses the issues presented during the motion hearing, and the objections do not provide a basis for rejecting the Report and Recommendation.

Accordingly, it is hereby

**ORDERED, ADJUDGED, and DECREED:**

- (1) The Report and Recommendation of Thomas B. McCoun III, United States Magistrate Judge (Doc. # 76) is **ACCEPTED AND ADOPTED**.
- (2) Plaintiff's Motion for Preliminary Injunction (Doc. # 18) is **GRANTED** consistent with the terms prescribed in the Report and Recommendation.

**DONE and ORDERED** in Chambers in Tampa, Florida, this 23rd day of April, 2012.

  
\_\_\_\_\_  
VIRGINIA M. HERNANDEZ COVINGTON  
UNITED STATES DISTRICT JUDGE

Copies: All Counsel of Record