

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

ERIC VICIAN, RENEE AST, and
JUSTIN LANGLEY, on their own behalf
and on behalf of those similarly situated,

Plaintiffs,

v.

Case No. 8:13-CV-1871-EAK-TGW

TIMOTHY M. ROBERTS,
DAVID HUNTER, DAVID BUCKEL,
TERRANCE TAYLOR
And TODD WALLACE,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter comes before the Court pursuant to Magistrate Judge Thomas G. Wilson's Report and Recommendation (R&R) issued March 20, 2015, (Doc. # 30). The Magistrate Judge recommended granting Plaintiffs' Motion to Tax Attorneys' Fees and Expenses (Doc. # 26).

BACKGROUND

On July 19, 2013, Plaintiffs filed a four-count Complaint alleging violation of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.* ("FLSA") and seeking to recover unpaid minimum wages and overtime wages on behalf of themselves and those similarly situated. (Doc. # 26). Plaintiffs moved for default judgment April 7, 2014. (Doc. # 18). On January 13, 2015, Magistrate Wilson recommended granting the motion for default judgment and that default judgment be entered in favor of Plaintiffs and against Defendant Roberts in the amount of \$51,895.90, plus post-judgment interest. (Doc. # 23). The Court adopted and incorporated that R&R and granted the Motion for Default Judgment. (Doc. # 24).

On February 20, 2015, Plaintiffs filed a Motion to Tax Attorneys' Fees and Expenses pursuant to 29 U.S.C. § 216(b) of the FLSA. (Doc. # 26). Plaintiffs calculated the total lodestar amount of \$7,152.50 according to twelve factors the Eleventh Circuit relied on in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714 (5th Cir. 1974), and calculated litigation expenses in the amount of \$605.00. (Doc. # 26). Defendant Roberts failed to file a response to this motion. On March 20, 2015, the Magistrate Judge recommended that the Plaintiffs' Motion to Tax Attorneys' Fees and Expenses be granted. (Doc. # 30).

LEGAL STANDARD

Under the Federal Magistrate's Act ("Act"), Congress vested Article III judges with the power to authorize a United States Magistrate Judge to conduct evidentiary hearings pursuant to 28 U.S.C. § 636. A District Court Judge may designate a United States Magistrate Judge to conduct hearings, including evidentiary hearings, in order to submit proposed findings of fact and recommendations (i.e., R&R) for the disposition of motions for injunctive relief. 28 U.S.C. § 636(b)(1)(B). Section 636(b)(1) also states that a District Judge shall make a de novo determination of those portions of the R&R to which objection is made. 28 U.S.C. § 636(b)(1).


When a party makes a timely and specific objection to a finding of fact in the R&R, the District Court should make a de novo review of the record with respect to that factual issue. (28 U.S.C. § 636(b)(1)); U.S. v. Raddatz, 447 U.S. 667 (1980); Jeffrey S. v. State Board of Education of State of Georgia, 896 F.2d 507 (11th Cir. 1990). However, when no timely and specific objections are filed, case law indicates the court should review the findings using a clearly erroneous standard. Gropp v. United Airlines, Inc., 817 F.Supp. 1558, 1562 (M.D. Fla. 1993). No timely objections were filed.

The Court has reviewed the R&R and made an independent view of the record under the clearly erroneous standard. Upon due consideration, the Court concurs with the R&R.

Accordingly, it is

ORDERED that the March 20, 2015 Report and Recommendation, (Doc. # 30), is **ADOPTED** and **INCORPORATED BY REFERENCE**; the Plaintiffs' Motion to Tax Attorneys' Fees and Expenses, (Doc. # 26), is **GRANTED**; the Clerk of Court is directed to enter judgment for the Plaintiffs and against the Defendant for attorneys' fees in the amount of \$7,152.50 and cost in the amount of \$605.00, plus post-judgment interest, pursuant to 29 U.S.C. 216(b) of the FLSA. The Clerk of Court is further directed to close this case and to terminate any other pending motions.

DONE and **ORDERED** in Chambers, in Tampa, Florida, this 30th day of June, 2015.



ELIZABETH A. KOVACHEVICH
UNITED STATES DISTRICT JUDGE

Copies to: All Counsel and Parties of Record