

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

7 SPRINGS ELECTRONICS, INC.,

Plaintiff,

vs.

CASE NO. 8:14-CIV-266-T-17-AEP

PARTS HANGER, INC., et al.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

This cause is before the Court on the report and recommendation (R&R) issued by Magistrate Judge Anthony A. Porcelli on January 6, 2015 (Doc. 50). The magistrate judge recommended that the Court grant the Motion to Dismiss Under Rule 41(b) (Doc. 49) and dismiss the case for failure to prosecute but further recommended that the Court deny without prejudice the request for attorney's fees and costs and allow the defendants to file a separate motion for the same.

Pursuant to Rule 6.02, Rules of the United States District Court for the Middle District of Florida, the parties had fourteen (14) days after service to file written objections to the proposed findings and recommendations, or be barred from attacking the factual findings on appeal. No timely objections to the report and recommendation

were filed.

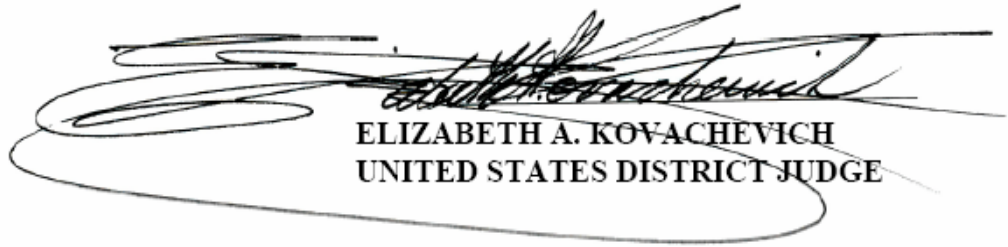
STANDARD OF REVIEW

When a party makes a timely and specific objection to a finding of fact in the report and recommendation, 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 that 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).

The Court has reviewed the report and recommendation and made an independent review of the record. Upon due consideration, the Court concurs with the report and recommendation in part. The Court will grant the motion to dismiss for failure to prosecute but will deny with prejudice the motion for attorney fees and costs. The Court does not find that the awarding of the requested fees and costs is appropriate in this case. Accordingly, it is

ORDERED that the report and recommendation, January 6, 2015 (Doc. 509) be **adopted** in part; the Motion to Dismiss Under Rule 41(b) (Doc. 49) be **granted in part**; the motion for fees and costs be **denied**; and the Clerk of Court is directed to close this case and to terminate any pending motions.

DONE and ORDERED in Chambers, in Tampa, Florida, this 28th day of
January, 2015



ELIZABETH A. KOVACHEVICH
UNITED STATES DISTRICT JUDGE

Copies to:
All parties and counsel of record
Assigned Magistrate Judge