

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

THOMAS E PEREZ, Secretary of
Labor, United States Department
of Labor,

Plaintiff,

v.

Case No. 8:14-cv-2487-T-33TGW

LA BELLA VIDA ALF, INC. et al.,

Defendants.

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ORDER

This matter is before the Court on consideration of United States Magistrate Judge Thomas G. Wilson's Report and Recommendation (Doc. # 49), entered on August 7, 2015, recommending that the Motion for Preliminary Injunction (Doc. # 30) be denied. As of this date, there are no objections to the Report and Recommendation, and the time for the parties to file such objections has elapsed.

I. Background

Thomas E. Perez, Secretary of Labor, United States Department of Labor, (the Secretary) filed a Motion for Temporary Restraining Order, which sought both a temporary restraining order and a preliminary injunction barring La Bella Vida ALF, Inc., Mavel Infante, and their agents from "continuing to violate Section 15(a) (5) and 15(a) (3) of the Fair Labor Standards Act of 1938, as

amended, 29 U.S.C. § 215(a)(5) and § 215(a)(3).” (Doc. # 30 at 1). This Court entered an Order granting the Secretary’s Motion for Temporary Restraining Order (Doc. # 33); the temporary restraining Order subsequently expired on July 17, 2015 (Doc. # 43).

This Court also referred the issue of whether to issue a preliminary injunction to Judge Wilson. (Doc. # 33). After conducting a hearing, Judge Wilson entered a prior Report and Recommendation noting he is “not persuaded that a preliminary injunction is necessary in this case” because “the [D]efendants’ facility is closed and the relevant employees are no longer employed by [D]efendants.” (Doc. # 41 at 1). As such, Judge Wilson recommended the Motion for Preliminary Injunction be deferred pending a special proceeding. (Id. at 2). This Court adopted Judge Wilson’s Report and Recommendation, and deferred ruling on the Motion for Preliminary Injunction pending the special proceeding. (Doc. # 44).

The special proceeding was held on July 28, 2015, and Judge Wilson entered a second Report and Recommendation in which he recommends the Motion for Preliminary Injunction be denied “[f]or the reasons stated in my prior Report and Recommendation.” (Doc. # 49 at 1). Thus, Judge Wilson recommends the Motion for Preliminary Injunction be denied because the Defendants’ facility is closed and the relevant employees are no longer employed by Defendants. (Id. (citing (Doc. # 41))).

II. Discussion

After conducting a careful and complete review of the findings and recommendations, 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 (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) (Table).

After conducting a careful and complete review of the findings, conclusions and recommendations, and giving *de novo* review to matters of law, the Court accepts the factual findings and legal conclusions of the magistrate judge and the recommendation of the magistrate judge.

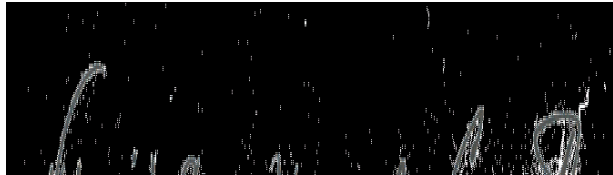
Accordingly, it is now

ORDERED, ADJUDGED, and DECREED:

(1) The Report and Recommendation (Doc. # 49) is **ACCEPTED** and **ADOPTED**.

(2) The Motion for Preliminary Injunction (Doc. # 30) is
DENIED.

DONE and **ORDERED** in Chambers in Tampa, Florida, this 1st
day of September, 2015.



Copies: All Counsel of Record.