

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

JOHN J. JERUE (Dismissed) and
MICHAEL J. FEIST,

Plaintiffs,

v.

Case No. 8:17-cv-587-TPB-AEP

DRUMMOND COMPANY, INC.,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on consideration of the report and recommendation of Anthony E. Porcelli, United States Magistrate Judge, entered on August 25, 2023. (Doc. 229). Judge Porcelli recommends that “Plaintiff’s Motion for Class Certification” (Doc. 142) be denied and “Defendant’s Motion to Exclude the Opinions of Plaintiff’s Expert Jeffrey E. Zabel” (Doc. 170) be granted. The parties filed objections (Docs. 236; 237), and Defendant filed a response to Plaintiff’s objection (Doc. 242).¹

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). In the absence of specific objections, there is no

¹ The Court notes that Defendant filed a partial objection that urges the Court to ultimately adopt the report and recommendation but quibbles with some of Judge Porcelli’s findings.

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).

Upon due consideration of the record, including Judge Porcelli's report and recommendation, the Court adopts the report and recommendation in its entirety. The Court agrees with Judge Porcelli's well-reasoned factual findings and conclusions, and the objections do not provide any basis for overruling the report and recommendation. Consequently, "Plaintiff's Motion for Class Certification" (Doc. 142) is denied, and "Defendant's Motion to Exclude the Opinions of Plaintiff's Expert Jeffrey E. Zabel" (Doc. 170) is granted.

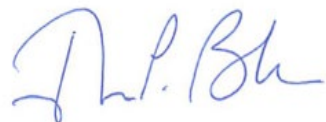
Accordingly, it is

ORDERED, ADJUDGED, and DECREED:

- (1) The report and recommendation (Doc. 229) is **AFFIRMED** and **ADOPTED** and **INCORPORATED BY REFERENCE** into this Order for all purposes, including appellate review.
- (2) "Plaintiff's Motion for Class Certification" (Doc. 142) is hereby **DENIED**.
- (3) "Defendant's Motion to Exclude the Opinions of Plaintiff's Expert Jeffrey E. Zabel" (Doc. 170) is **GRANTED**.

- (4) The parties are directed to file a joint case management report on or before October 18, 2023. This case will be set for a case management conference on October 25, 2023, to discuss the status of the case and the proposed deadlines.

DONE and **ORDERED** in Chambers, in Tampa, Florida, this 10th day of October, 2023.

A handwritten signature in blue ink, appearing to read "T. Barber", is positioned above a horizontal line.

TOM BARBER
UNITED STATES DISTRICT JUDGE