

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 20-CV-61648-RAR

BRENDA HERNANDEZ, and
LUIS LUQUE,

Plaintiffs,

v.

SAM'S EAST, INC.,

Defendant.

ORDER AFFIRMING AND ADOPTING REPORT AND RECOMMENDATION

THIS CAUSE comes before the Court upon United States Magistrate Judge Jared M. Strauss's Report and Recommendation [ECF No. 78] ("Report"), filed on August 13, 2021. The Report recommends that the Court grant Defendant Sam's East, Inc.'s Verified Memorandum in Support of Its Bill of Costs ("Defendant's Motion") [ECF No. 61] and deny Plaintiffs' response and incorporated motion to strike ("Plaintiffs' Motion to Strike") [ECF No. 64]. *See* Report at 1. The Report properly notified the parties of their right to object to Magistrate Judge Strauss's findings and the consequences for failing to object. *Id.* at 6. The time for objections has passed and no party has filed any objections to the Report.

When a magistrate judge's "disposition" has properly been objected to, district courts must review the disposition *de novo*. FED. R. CIV. P. 72(b)(3). However, when no party has timely objected, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72 advisory committee's notes (citation omitted). Although Rule 72 itself is silent on the standard of review, the Supreme Court has acknowledged Congress's intent was to only require a *de novo* review where objections have been

properly filed, not when neither party objects. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate [judge]’s factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”). In any event, the “[f]ailure to object to the magistrate [judge]’s factual findings after notice precludes a later attack on these findings.” *Lewis v. Smith*, 855 F.2d 736, 738 (11th Cir. 1988) (citing *Nettles v. Wainwright*, 677 F.2d 404, 410 (5th Cir. 1982)).

Because no party has filed an objection to the Report, the Court did not conduct a *de novo* review of Magistrate Judge Strauss’s findings. Rather, the Court reviewed the Report for clear error. Finding none, it is

ORDERED AND ADJUDGED as follows:

1. The Report [ECF No. 78] is **AFFIRMED AND ADOPTED**.
2. Defendant’s Motion [ECF No. 61] is **GRANTED**. Defendant is awarded costs in the amount of \$6,652.55 and post-judgment interest to be calculated from April 27, 2021, until the judgment is satisfied.
3. Plaintiffs’ Motion to Strike [ECF No. 64] is **DENIED**.

DONE AND ORDERED in Fort Lauderdale, Florida, this 7th day of September, 2021.



RODOLFO A. RUIZ II
UNITED STATES DISTRICT JUDGE

cc: Counsel of record
Magistrate Judge Jared M. Strauss