

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 07-22311-CIV-Lenard/Garber

JORGE SARMIENTO, on his own behalf  
and others similarly situated,

Plaintiff,

v.

OCEAN BLUE CONTRACTORS, INC.,  
a Florida corporation f/k/a A.R.I. ROOFING  
CONTRACTORS, INC. and DANIEL DEL  
SOL, individually,

Defendants.

---

**REPORT AND RECOMMENDATION**

THIS CAUSE is before the Court by Order of Reference from United States District Judge Joan A. Lenard. Pursuant to such reference, the Court has received the plaintiff's Motion to Enforce Settlement and for Entry of Judgment for Plaintiff [DE 52]. No response was filed by the defendants and neither the defendants nor their counsel appeared at the hearing on said Motion held this date. The Order scheduling the hearing was electronically transmitted to the defendants' attorney who denies having received it. Notwithstanding such denial, the electronic system reflects that said Order was received by defendant's counsel.

**FACTUAL BACKGROUND**

This cause was instituted by the filing of a complaint seeking damages pursuant to the Fair Labor Standards Act. The parties, on May 27, 2008, filed a Joint Stipulation for Dismissal together with an executed copy of a Settlement Agreement which provided for a series of monthly payments

in satisfaction of the agreed settlement amount of \$14,000.00. The Settlement Agreement also provided that in the event of a default in such payments, plaintiff would be entitled to the entry of a judgment in the amount \$17,500.00 less any payments previously made by the defendants.

Defendants have paid a total of \$5,500.00 but are in arrears in such payment in the amount of an additional \$2,000.00. The last payment made by the defendants was on March 13, 2009. Plaintiffs' counsel advised the defendant's attorney of the delinquencies in payment as required by the Settlement Agreement. Defendants have failed to comply with the payments required by the Agreement.

Plaintiff has incurred attorney's fees in the amount of \$324.00 for legal services necessitated in the bringing of the instant Motion, which fees the Court finds to be reasonable and necessary.

#### **CONCLUSION AND RECOMMENDATION**

For reasons set forth above and based upon the Court's review of the record, and consideration of the submissions of the parties, the undersigned respectfully

\_\_\_\_\_RECOMMENDS that the plaintiff's Motion to Enforce Settlement and for Entry of Judgment for Plaintiff be GRANTED and that the Court enter a Final Judgment in favor of the plaintiff and against the defendants, jointly and severally in the amount of \$12,000.00 together with interest allowed by law and for an additional \$324.00 as and for attorney's fees.

The parties have ten (10) days from the date of this Report and Recommendation within which to file written objections, if any, with United States District Judge Joan A. Lenard. See 28 U.S.C. §636 (1991). Failure to file timely objections may bar the parties from attacking on appeal the factual findings contained herein. LoConte v. Dugger, 847 F.2d 745, 750 (11th Cir.), cert. denied, 488 U.S. 958 (1988).

RESPECTFULLY SUBMITTED at the United States Courthouse, Miami, Florida this 15<sup>th</sup>  
day of June, 2009.

  
BARRY L. GARBER  
UNITED STATES MAGISTRATE JUDGE

---

---