

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:17-cv-23362-KMM

MAMA JO'S INC.,

Plaintiff,

v.

SPARTA INS. CO., *et al.*,

Defendants.

ORDER ON REPORT AND RECOMMENDATION

THIS CAUSE came before the Court upon Defendant Sparta Insurance Company's ("Defendant Sparta") Motions for Appellate Attorneys' Fees (ECF Nos. 188, 199) and for Entry of Judgment for Fees and Costs (ECF No. 203). Plaintiff filed responses in opposition. (ECF Nos. 205, 207). The Court referred this matter to the Honorable Chris M. McAliley, United States Magistrate Judge, who issued a Report and Recommendation ("R&R") (ECF No. 210) recommending that the Motions be granted. No objections were filed and the time to do so has passed. The matter is now ripe for review. As set forth below, the Court ADOPTS the R&R.

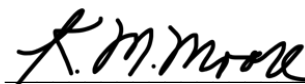
The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Defendant Sparta seeks an award of \$54,944.50 for appellate attorneys' fees that it incurred defending Plaintiff's appeal of the Court's Order granting summary judgment, and judgment in favor of Defendant Sparta for \$106,686.14—the sum the Court awarded for trial attorneys' fees and costs. R&R at 3; *see also* (ECF No. 197). As set forth in the R&R, Magistrate Judge McAliley finds that (1) Plaintiff's request to stay resolution of Defendant's Motion for Appellate Attorneys' Fees is without merit; (2) Defendant Sparta is entitled to an award of appellate attorneys' fees

under Fla. Stat. § 768.79; and (3) the hourly rates and number of hours sought are reasonable. *Id.* at 3–5. Specifically, Magistrate Judge McAliley recommends that Defendant Sparta be awarded \$54,944.50 in reasonable appellate attorneys’ fees. *Id.* at 7. As to entry of judgment for trial attorneys’ fees and costs, Magistrate Judge McAliley finds that (1) again, Plaintiff has not demonstrated that a stay of this matter is appropriate; (2) Plaintiff’s appeal of the Court’s Order awarding trial attorneys’ fees and costs does not divest the Court of jurisdiction to enter judgment in connection with that Order; and (3) Plaintiff has not presented a cogent argument why the Court should not enter judgment. *Id.* at 7–9. Accordingly, Magistrate Judge McAliley recommends that the Court enter judgment in the amount of \$161,630.64, without interest,¹ which accounts for the \$106,686.14 award for trial attorneys’ fees and costs, *see* (ECF No. 197), and the \$54,944.50 award for appellate attorneys’ fees recommended in the R&R. *Id.* at 9. The Court agrees.

Accordingly, UPON CONSIDERATION of the Motions, the R&R, the pertinent portions of the record, and being otherwise fully advised in the premises, it is ORDERED and ADJUDGED that the R&R (ECF No. 210) is hereby ADOPTED. It is further ORDERED that Defendant Sparta is entitled to \$54,944.50 in appellate attorneys’ fees and entry of judgment shall issue.

DONE AND ORDERED in Chambers, at Miami, Florida this 30th day of June, 2021.



K. MICHAEL MOORE
CHIEF UNITED STATES DISTRICT JUDGE

c: All counsel of record

¹ Magistrate Judge McAliley finds that while Defendant request that judgment “bear interest at the legal rate as provided by law,” (ECF No. 203) at 2, Defendant “does not state whether it seeks pre- or post-judgment interest, when that interest should begin to run, or identify any legal authority to support its request.” R&R at 9. Thus, Magistrate Judge McAliley recommends that the Court deny Defendant’s request for interest. *Id.*