

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

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

MAMA JO'S INC.  
*d/b/a Berries,*

Plaintiff,

v.

SPARTA INSURANCE COMPANY,

Defendant.

v.

BANKUNITED N.A.,

Garnishee.

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**ORDER ON REPORT AND RECOMMENDATION**

THIS CAUSE came before the Court upon Garnishee BankUnited, N.A.'s Amended Motion to Compel Judgment Assignee, Casa Financial Holdings, LLC, to File Satisfaction of Garnishment Judgment and for Recovery of Garnishee's Attorneys' Fees and Costs. ("Motion" or "Mot") (ECF No. 249).<sup>1</sup> Therein, Garnishee requests that this Court enter an Order compelling Judgment Assignee Casa Financial Holdings, LLC ("Casa") to file a satisfaction of the garnishment judgment established by this Court's February 25, 2022 Order (ECF No. 244), and permitting the recovery of BankUnited's attorney's fees. *See* Mot. at 1. The matter was referred

<sup>1</sup> Garnishee BankUnited initially filed a nearly identical motion on August 26, 2022, only to subsequently file its instant motion three days later with the phrase "Amended Motion" in the title. *See* (ECF No. 248), Mot. The Court has no reason to believe these motions are substantively dissimilar or merit different consideration. Accordingly, BankUnited's original motion on the matter, (ECF No. 248), is DENIED AS MOOT.

to the Honorable Lauren Fleischer Louis, United States Magistrate Judge. (ECF No. 250). On December 31, 2022, Magistrate Judge Louis issued a Report and Recommendation, (“R&R”) (ECF No. 255), recommending BankUnited’s Motion be GRANTED IN PART AND DENIED IN PART AS MOOT. No objections were filed in opposition to the R&R 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. Crim. P. 59(b)(3). The Court “must consider *de novo* any objection to the magistrate judge’s recommendation.” Fed. R. Crim. P. 59(b)(3). A *de novo* review is therefore required if a party files “a proper, specific objection” to a factual finding contained in the report. *Macort v. Prem, Inc.*, 208 F. App’x 781, 784 (11th Cir. 2006). “It is critical that the objection be sufficiently specific and not a general objection to the report” to warrant *de novo* review. *Id.* Yet when a party has not properly objected to the magistrate judge’s findings, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *See Keaton v. United States*, No. 14-21230-CIV, 2015 WL 12780912, at \*1 (S.D. Fla. May 4, 2015); *see also Lopez v. Berryhill*, No. 17-CV-24263, 2019 WL 2254704, at \*2 (S.D. Fla. Feb. 26, 2019) (stating that a district judge “evaluate[s] portions of the R & R not objected to under a clearly erroneous standard of review” (citing *Davis v. Apfel*, 93 F. Supp. 2d 1313, 1317 (M.D. Fla. 2000))).

In her Report and Recommendation, Magistrate Judge Louis concludes that: (1) in light of Casa’s September 8, 2022 filing of its Satisfaction of Judgment (ECF No. 251) indicating that Casa “received payment upon said Final Judgment in Garnishment and has waived the costs incurred and interests accrued in domesticating the judgment in State Court,” BankUnited’s request that the Court compel Casa to file a full satisfaction of this Court’s garnishment order should be denied as

moot, *see* R&R at 5; and (2) BankUnited is entitled to a \$100.00 statutory fee as well as reasonable costs and expenses, including attorneys' fees, incurred in responding to a writ issued by the Clerk of Court on November 18, 2021, *see id.* at 5–7. This Court agrees.

Accordingly, UPON CONSIDERATION of the Motion, the R&R, the pertinent portions of the record, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED that Magistrate Judge Louis's R&R (ECF No. 255) is ADOPTED. Defendant's Motion is GRANTED IN PART AND DENIED IN PART. Garnishee BankUnited's request that this Court permit it to recovery attorneys' fees and expenses is GRANTED. BankUnited is entitled to seek statutory costs and expenses, including the \$100.00 statutory fee and attorneys' fees as prescribed by Fla. Stat. § 77.28, in this garnishment action. Should Casa and BankUnited fail to agree on BankUnited's statutory costs and expenses, BankUnited may file a motion seeking such expenses within fourteen (14) days of this Order. To the extent that BankUnited sought this Court to compel Casa to file a full satisfaction of the garnishment judgment, that request is DENIED AS MOOT in light of Casa's September 8, 2022 filing (ECF No. 251).

DONE AND ORDERED in Chambers at Miami, Florida, this 19th day of January, 2023.



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K. MICHAEL MOORE  
UNITED STATES DISTRICT JUDGE

c: All counsel of record