

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:17-CV-6-BO

R. ALEXANDER ACOSTA,)
Secretary of Labor, United States)
Department of Labor,)
Plaintiff,)
v.)
NICHOLS FOOD SERVICE, INC. *et al.*,)
Defendants.)

ORDER

This cause comes before the Court on entry of a memorandum and recommendation by United States Magistrate Judge Robert T. Numbers, II. 28 U.S.C. § 636(b). No objections to the memorandum and recommendation have been filed, and the matter is ripe for review.

BACKGROUND

This action, arising under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.*, was instituted by the Secretary of Labor against James L. Nichols and several corporate entities on January 13, 2017. On October 3, 2017, Magistrate Judge Numbers entered a notice of deficiency regarding the answer filed by defendants. Defendant James Nichols, an individual who is not an attorney admitted to practice in this Court, had filed the answer on behalf of himself and the corporate defendants. Magistrate Judge Numbers ordered that counsel for the corporate defendants must appear not later than October 20, 2017, and further notified defendants that sanctions may be imposed for failing to comply with the deficiency order. On November 20, 2017, Magistrate Judge Numbers held a show cause hearing after no counsel had appeared on behalf of the corporate defendants.

On November 22, 2017, Magistrate Judge Numbers entered the instant memorandum and recommendation (M&R), recommending that the answer filed on behalf of the corporate defendants be stricken as such defendants are not permitted to appear *pro se*.

DISCUSSION

A district court is required to review de novo those portions of an M&R to which a party timely files specific objections or where there is plain error. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985). “[I]n the absence of a timely filed objection, a district court need not conduct de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation and citation omitted).

No party has objected to the M&R and the time for doing so has passed. The Court has reviewed the M&R and is satisfied that there is no clear error on the face of the record. Accordingly, the memorandum and recommendation is ADOPTED.

CONCLUSION

The memorandum and recommendation of Magistrate Judge Numbers is ADOPTED. The answer filed on behalf of the corporate defendants in this matter is hereby STRICKEN.

SO ORDERED, this 10 day of January, 2018.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE