

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Ricky Alan Childers,)
)
Plaintiff,)

Civil Action No.: 6:14-cv-00251-JMC

v.)

ORDER

State Farm Life Insurance Company,)
)
Defendant.¹)

State Farm Life Insurance Company,)
)
Counter Claimant,)

v.)
Ricky Alan Childers,)
)
Counter Defendant.)

State Farm Life Insurance Company,)
)
Third-Party Plaintiff,)

v.)
Kimberly Elaine McGee, Ryan M.)
Osborne, Alice Riedel, Gregory M.)
Riedel, Robert Riedel, Arthur and Peggy)
Telson, and Yvonne and Dakota Telson,)
)
Third-Party Defendants.)

¹All claims asserted by Plaintiff Ricky Alan Childers against Defendant State Farm Life Insurance Company were dismissed with prejudice pursuant to a stipulation of dismissal filed on May 9, 2014. (ECF No. 24.).

This matter is before the court for review of the magistrate judge's Report and Recommendation (“Report”) (ECF No.78), filed on October 24, 2014, recommending that the State Farm Life Insurance Company’s Motion to Dismiss (ECF No. 37) be granted; Childers’ Motion for Summary Judgment (ECF No. 61) be granted; and Childers’ Motion for Default Judgment (ECF No. 71) be found as moot. The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the magistrate judge’s recommendation herein without a recitation.

The magistrate judge’s Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The magistrate judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the magistrate judge’s recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Petitioner was advised of his right to file objections to the Report and Recommendation (ECF No. 78-1). However, Petitioner filed no objections to the Report and Recommendation.

In the absence of objections to the magistrate judge’s Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court

need not conduct a 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) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party’s waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

Therefore, after a thorough and careful review of the Report and the record in this case, the court finds the Report provides an accurate summary of the facts and law. The court **ADOPTS** the magistrate judge’s Report and Recommendation (ECF No. 78). It is therefore **ORDERED** that State Farm Life Insurance Company’s Motion to Dismiss (ECF No. 37) is **GRANTED**; Ricky Alan Childers’ Motion for Summary Judgment (ECF No. 61) is **GRANTED**; and Ricky Alan Childers’ Motion for Default Judgment is **MOOT** (ECF No. 71).

IT IS SO ORDERED.



United States District Judge

December 31, 2014
Columbia, South Carolina