

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

JPB Restaurant Group LLC,)
)
 Plaintiff,)
)
 v.)
)
 Gringos Cantina LLC and Harold Dean)
 White,)
)
 Defendants,)
)
 _____)
)
 Gringos Cantina LLC and Harold Dean)
 White,)
)
 Counter-Claimants,)
)
 v.)
)
 Jacob Billingsley and JPB Restaurant)
 Group LLC,)
)
 Counter-Defendants.)
 _____)

Case No. 6:21-cv-02943-DCC

ORDER

This matter is before the Court on JPB Restaurant Group LLC (“JPB”) and Jacob Billingsley’s (“Billingsley”) Motion for Summary Judgment. ECF No. 53. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Kevin F. McDonald for pre-trial proceedings and a Report and Recommendation (“Report”). February 28, 2024, the Magistrate Judge

issued a Report recommending that the Motion be granted. ECF No. 57. The Magistrate Judge advised Harold Dean White (“White”) of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. White has not filed objections and the time to do so has lapsed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “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.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation. JPB and Billingsley’s Motion for Summary Judgment [53] is **GRANTED** as to JPB’s claim for breach of contract against White and White’s counter claims against JPB and Billingsley are dismissed with prejudice. JPB is entitled to judgment against White for breach of contract for amount of the remaining balance, interest, and attorney’s

fees, as called for in the Promissory Notes together with damages in the amount of any unpaid regularly scheduled tax payments. Billingsley is entitled to attorneys' fees and costs incurred in bringing the Motion for Summary Judgment. JPB and Billingsley are directed to file a bill of costs within 14 days.¹

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

May 9, 2024
Spartanburg, South Carolina

¹ The Court notes that this action remains pending as to Defendant Gringos Cantina LLC. Default has been entered as to this Defendant; however, no motion for default judgment has yet been filed. **Plaintiff is directed to file a motion for default judgment or a stipulation of dismissal as to this Defendant within 14 days.**