UNITED STATES DISTRICT COURT WESTERN DISTRICT OF TEXAS EL PASO DIVISION

DESERT FOX CUSTOM
RESTORATIONS, INC., a New Mexico

Corporation,

Plaintiff,

V.

EP-20-CV-00080-DCG

CWS MARKETING GROUP, a Virginia

Corporation; THE ACCURATE GROUP

OF TEXAS, a Texas LLC; and WESTCOR

LAND & TITLE INC., a Florida Licensed

Insurance Co.,

Defendants.

MEMORANDUM ORDER

Presently before the Court is United States Magistrate Judge Leon Schydlower's "Report and Recommendation of the Magistrate Judge to Dismiss This Lawsuit for Want of Prosecution" (ECF No. 47). In December 2019, Plaintiff Desert Fox Custom Restorations, Inc. brought this lawsuit against Defendants CWS Marketing Group, The Accurate Group of Texas, and Westcor Land Title Insurance Company, incorrectly named as Westcor Land & Title Inc., in the United States District Court for the District of New Mexico. In March 2020, pursuant to the parties' stipulation, the case was transferred to this Court.

Judge Schydlower recommends that this lawsuit be dismissed without prejudice for want of prosecution by Plaintiff. R&R at 2, ECF No. 47. Further, at the conclusion of his Report and Recommendation, the magistrate judge reminded the parties that they "ha[d] fourteen days from service of this report and recommendation to file written objections." *Id.* (capitalization omitted); *see also* 28 U.S.C. § 636(b)(1)(c); Fed. R. Civ. P. 72(b). The time for filing such

¹ Westor's Ans. to Pl.'s Compl. at 1, ECF No. 13.

objections has passed, but no party filed any objection. See ECF No. 49.

When a party files timely written objections to a magistrate judge's report and recommendation, the district judge must "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). As to the unobjected-to portions of the magistrate judge's report or when a party does not file written objections, the district judge applies a "clearly erroneous, abuse of discretion and contrary to law" standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985) ("It does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings."). Having carefully reviewed the Report and Recommendation, the Court concludes that the magistrate judge's findings, conclusions, and recommendation are not clearly erroneous or contrary to law.

Accordingly, **IT IS ORDERED** that Magistrate Judge Leon Schydlower's "Report and Recommendation of the Magistrate Judge to Dismiss This Lawsuit for Want of Prosecution" (ECF No. 47) is **ACCEPTED**.

IT IS THEREFORE ORDERED that Plaintiff's claims asserted against Defendants in the above-captioned case are DISMISSED WITHOUT PREJUDICE.

IT IS MOREOVER ORDERED that the District Clerk SHALL CLOSE this case and MAIL a copy of this Memorandum Order to Plaintiff Desert Fox Custom Restorations, Inc's owner Vincent Tangredi at 103 Metz Dr. #B, Ruidoso, New Mexico, 88345.

So ORDERED and SIGNED this <u>30th</u> day of June 2020.

DAVID C. GUADERRAMA

UNITED STATES DISTRICT JUDGE