

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-00461-DME-CBS:

MARIO FACUNDO BORREGO BRIONES, JESUS ALBERTO MARINES CARREON, RAUL RIOS SOLIS, PABLO PACHECO DEL REAL, ANTONIO RODARTE GARAMENDI, ERNESTO ALVAREZ SALINAS, JUAN GABRIEL ALEJANDRO RAMIREZ, MANUEL MIJANGOS, JOSE LUIS RUBIO CHAVARRIA, JOSE JESUS VALTIERRA MONTOYA, NICOLAS HERNANDEZ HERNANDEZ, JULIAN FERIA ACOSTA, ROBERTO CARLOS BERNAL CHAVEZ, JESUS GERARDO CUETO LOPEZ, AURELIO CARILLO HERNANDEZ, MARTIN OLIVA PONCE, GABRIEL MARTINEZ PONCE, ANTONIO CARILLO HERNANDEZ, SILVANO GARCIA VEGA, CHRISTIAN OSUNA RAMOS, LEOPOLDO ZARCA GONZALEZ, LUIS MATA LOPEZ, JOSE PAZ AGUIRRE HERNANDEZ, PEDRO VARGAS LEDESMA, ANGEL GEOVANNI DURAN NAVARRO, PABLO SANCHEZ REYES, RICARDO ROJO COVARRUBIAS, JORGE ROJO COVARRUBIAS, JUAN SARABIA MENDEZ, PABLO LUNA TORRES, MARTIN ALEJANDRE HERNANDEZ, JUAN GERARDO ALVARADO GATICA, MIGUEL ANGEL BELTRAN ACEVEDO, JOSE DE JESUS GOMEZ GALVAN, MARTIN BARRON VERA, DAVID GUDINO CHAVARRIA, GERMAN MARTINEZ HERNANDEZ, JOEL AGUILAR TORRES, ARMANDO ORTIZ RUBIO, CALIXTRO OVANDO LIMA, RODOLFO DELGADO RODRIGUEZ, RAMON RODRIGUEZ ARAGUZ, ARTEMIO GARCIA MELO, ANTONIO MONCADA RICO, MIGUEL ANGEL CASTANEDA MARTINEZ, ORACIO RAMIREZ MARTINEZ, LINDOLFO MARTINEZ CASTRO, RAMIRO AVALOS CAMACHO, MARTIN JAIME DURAN MARIN, DANIEL HECTOR DAVILA MARTINEZ, ANSELMO BARRIOS VALDEZ, LUIS ALBERTO DAMIAN ARROYO, FRANCISCO NEGRETE CAMACHO, JUAN LUCIANO ORTIZ DUARTE, DANIEL MORENO VERA, JORGE FLORES BALTAZAR, MARION ARMANDO FLORES BALTAZAR, EDGAR ESTEBAN RODRIGUEZ HERNANDEZ, PABLO CESAR AGUILAR DIAZ, ALEJANDRO ZUNIGA, SANTIAGO MENDOZA RAMIREZ, FEDERICO GONZALEZ CHANTACA, FERMIN RIVERA GUZMAN, MIGUEL ANGEL GUZMAN ESCOGIDO, RODRIGO HERNANDEZ CAHUICH, VICTOR DANIEL BARRIOS RANGEL, DAVID ARENAS MUNIZ, RICARDO GONZALEZ MIRANDA, and MIDWEST DRYWALL COMPANY, INC.,

Plaintiffs,

v.

JNS CONSTRUCTION SERVICES, LLC, JOHN HERZER, LENO & COMPANY, LLC, LENO ASEUDO, also known as Leno Acevedo,

Defendants.

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ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATION

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In this action, Plaintiffs—sixty-eight Mexican citizens who sought to work in the United States after obtaining temporary work visas, and a Kansas drywall company—seek to recover from Defendants expenses the individual Plaintiffs incurred in obtaining their visas and travelling to Colorado for work promised them by Defendants. Plaintiffs allege that Defendants did not fulfill those promises of employment.

The parties have entered into a written confidential settlement agreement, which has been filed with this Court under seal. (Doc. 90.) The parties do not challenge the existence or substance of that agreement.

This matter now comes before the Court on Plaintiffs' "Motion to Enforce the Settlement Agreement and for Other Relief." (Doc. 83.) In a report and recommendation dated March 3, 2009, the Magistrate Judge recommends granting this motion "to the extent that the stipulated amount set forth at page 3, paragraph 2 of the settlement agreement (doc. #90 [under seal]) be reduced to a judgment in favor of all Plaintiffs and against all Defendants." (Doc. 106 at 5.) The report further recommends rejecting Plaintiffs' request for an award of attorneys' fees based upon Plaintiffs' allegations that Defendants have acted in bad faith by failing to comply with the terms of the settlement agreement.

The Magistrate Judge's report and recommendation notified all parties

that they had ten days after the date they were served with that report to file any objections they might have. Despite this notice, none of the parties have filed any objections to the March 3 report and recommendation.

This Court “is accorded considerable discretion with respect to the treatment of unchallenged magistrate reports. In the absence of timely objection, the district court may review a magistrate’s report under any standard it deems appropriate.” Summers v. State of Utah, 927 F.2d 1165, 1167 (10th Cir. 1991); see also Thomas v. Arn, 474 U.S. 140, 149 (1985) (noting 28 U.S.C. § 636(b)(1)(C) “does not on its face require any review at all, by either the district court or the court of appeals, of any issue that is not the subject of an objection”).

Although not required to do so, the Court has reviewed the Magistrate Judge’s report and recommendation to insure that there is no “clear error on the face of the record.” Strepka v. Sailors, 494 F. Supp.2d 1209, 1215 (D. Colo. 2007). Finding no such error, the Court AFFIRMS and ADOPTS in full the Magistrate Judge’s report and recommendation dated March 3, 2009. (Doc. 106.)

Judgment is, therefore, entered in favor of all Plaintiffs against all Defendants as stipulated by the parties in their settlement agreement: Defendants are jointly and severally obligated “to pay Plaintiffs a total sum of Fifty Four Thousand Four Hundred Dollars (\$54,400.00), which equals \$800.00 to each of the sixty-eight individual Plaintiffs and \$0.00 to Plaintiff Midwest Drywall Co.” (Doc. 90 at 3.) Defendants shall “make this payment . . . in a lump

sum to individual Plaintiffs' counsel, Donald J. Kaufman," who will distribute it to the individual Plaintiffs.

Having entered this judgment, the parties are directed to show cause, by written response filed with this Court within twenty days of the date of this order, why this Court should not dismiss Plaintiffs' claims against all Defendants with prejudice and conclude this litigation.

Dated: April 3, 2009

BY THE COURT:

*s/ David M. Ebel*

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UNITED STATES CIRCUIT JUDGE