

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.: 23-cv-24891-JB/Louis

TOP TRACKING SYSTEM LLC,

Plaintiff,

v.

MARIA V. CASTELLANOS, *et al.*,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATIONS

THIS CAUSE was referred to the Honorable Lauren F. Louis, United States Magistrate Judge, for a Report and Recommendation on Counter-Defendant/Plaintiff's Motion to Dismiss Counter-Plaintiffs/Defendants' Verified Counterclaim, ECF No. [65] and Counter-Plaintiffs' Motion for Appointment of Receiver and Temporary Restraining Order, ECF No. [90]. *See* ECF Nos. [86], [91]. Magistrate Judge Louis filed a Report and Recommendation ("R&R"), recommending that the Motion to Dismiss Verified Counterclaim be granted, that Counter-Plaintiffs' claim for judicial dissolution predicated on misappropriation of assets (Count I) be dismissed without prejudice, that Counter-Plaintiffs' claim for judicial dissolution predicated on the basis of deadlock (Count II) be dismissed with prejudice, and that Counter-Plaintiffs be afforded leave to amend their Counterclaim for judicial dissolution predicated on misappropriation of assets (Count I). ECF No. [110]. Magistrate Judge Louis further recommends that the Motion for Appointment of Receiver and Temporary Restraining Order be denied. *Id.*

Counter-Defendant/Plaintiff filed a partial objection to the R&R, arguing that dismissal of Count I of the Verified Counterclaim should be with prejudice, as opposed to without prejudice as Judge Louis recommended. ECF No. [112]. No other objections to the R&R were filed. This Court has a duty to “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). It also may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*

The Court, having conducted a *de novo* review of the record and the issues presented in Counter-Defendant/Plaintiff’s Partial Objection, agrees with Magistrate Judge Louis that dismissal of the Verified Counterclaim is warranted, and that Count I of the Verified Counterclaim should be dismissed without prejudice while Count II of the Verified Counterclaim should be dismissed with prejudice.

Accordingly, after careful consideration, it is hereby **ORDERED AND ADJUDGED** that:

1. Counter-Defendant/Plaintiff’s Partial Objection, ECF No. [112], is **OVERRULED**.
2. United States Magistrate Judge Louis’ Report and Recommendation, ECF No. [110], is **AFFIRMED AND ADOPTED**.
3. Counter-Defendant/Plaintiff’s Motion to Dismiss Counter-Plaintiffs/Defendants’ Verified Counterclaim, ECF No. [65], is **GRANTED**.

4. Count II of the Verified Counterclaim is **DISMISSED WITH PREJUDICE**.

5. Count I of the Verified Complaint for judicial dissolution predicated on misappropriation of assets is **DISMISSED WITHOUT PREJUDICE**.

6. If Defendant/Counter-Plaintiffs intend to file an amended counterclaim for judicial dissolution predicated on misappropriation of assets, they must do so by **October 11, 2024**.

7. Counter-Plaintiffs' Motion for Appointment of Receiver and Temporary Restraining Order, ECF No. [90], is **DENIED**.

DONE AND ORDERED in Miami, Florida, this 27th day of September, 2024.



JACQUELINE BECERRA
UNITED STATES DISTRICT JUDGE