

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DIGITAL CAMERA INTERNATIONAL LTD.,
a New Jersey corporation,

Plaintiff,

MEMORANDUM & ORDER
11-CV-1823 (MKB)

v.

BARRY ANTEBI and MARLENE ANTEBI
(f/k/a MARLENE PALACCI)

Defendants.

MARGO K. BRODIE, United States District Judge:

Plaintiff Digital Camera International Ltd. (“DCI”) brought the above-captioned action against Defendants Barry Antebi (“B. Antebi”) and Marlene Antebi (“M. Antebi”) on April 13, 2011, asserting claims for breach of fiduciary duty, fraud, constructive fraud, unjust enrichment and conversion and seeking money damages, a constructive trust and injunctive relief. (Docket Entry No. 1.) Plaintiff filed an Amended Complaint on June 29, 2011, asserting the same claims. (Docket Entry No. 6.) On April 8, 2013, the parties cross-moved for summary judgment. (Docket Entry Nos. 48, 58.) DCI moved for summary judgment against B. Antebi and M. Antebi for conversion and against B. Antebi for breach of fiduciary duty. M. Antebi moved for summary judgment dismissing the conversion and unjust enrichment claims against her. On October 9, 2013, the Court referred the motions to Magistrate Judge Ramon E. Reyes, Jr. for a report and recommendation. (Order dated Oct. 9, 2013.) On February 21, 2014, Judge Reyes issued a report and recommendation (“R&R”) recommending that DCI’s motion for summary judgment be denied in its entirety and that M. Antebi’s motion for summary judgment be denied

as to the conversion claim and granted as to the unjust enrichment claim. (Docket Entry No. 61.)
No objections were filed.

A district court reviewing a magistrate judge's recommended ruling "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "Failure to object to a magistrate judge's report and recommendation within the prescribed time limit 'may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object.'" *Sepe v. New York State Ins. Fund*, 466 F. App'x 49, 50 (2d Cir. 2012) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997)); *see also Almonte v. Suffolk Cnty.*, 531 F. App'x 107, 109 (2d Cir. 2013) ("As a rule, a party's failure to object to any purported error or omission in a magistrate judge's report waives further judicial review of the point." (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) ("[A] party waives appellate review of a decision in a magistrate judge's Report and Recommendation if the party fails to file timely objections designating the particular issue.").

The Court has reviewed the unopposed R&R, and, finding no clear error, the Court adopts Judge Reyes's R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1). DCI's motion for summary judgment is denied in its entirety and M. Antebi's motion for summary judgment is

denied as to the conversion claim and granted as to the unjust enrichment claim.

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge

Dated: March 11, 2014
Brooklyn, New York