

FILED
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3:31 pm, Sep 29, 2021

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

For Online Publication Only

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TARIK AHMED, TIMOTHY A. LESTER,
and LOCUST VALLEY TOBACCO, INC.,

Plaintiffs,

-against-

ORDER
12-CV-3654 (JMA) (SIL)

TOWN OF OYSTER BAY, FREDERICK P.
IPPOLITO, Individually and in his official
capacity, DIANA S. AQUIAR, Individually
and in her official capacity, and JOSEPH
CIAMBRA, Individually and in his official
capacity,

Defendants.

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AZRACK, United States District Judge:

Pending before the Court is the motion for summary judgment filed by defendants Diana S. Aquiar and Joseph Ciambra, (ECF No. 80), which I referred to Magistrate Judge Locke for a report and recommendation. Judge Locke recommends that the motion be granted as to Aquiar and denied as to Ciambra. (the “R&R”). (ECF No. 83.) Ciambra timely filed objections to the R&R. (ECF No. 84.)

In reviewing a magistrate judge’s report and recommendation, the Court must “make a de novo determination of those portions of the report or . . . recommendations to which objection[s][are] made.” 28 U.S.C. § 636(b)(1)(C); see also Brown v. Ebert, No. 05–CV–5579, 2006 WL 3851152, at *2 (S.D.N.Y. Dec. 29, 2006). The Court “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). Those portions of a report and recommendation to which there is no specific reasoned objection are reviewed for clear error. See Pall Corp. v. Entegris, Inc., 249 F.R.D. 48,

51 (E.D.N.Y. 2008).

After conducting a review of the full record (including the motion papers, R&R, and objections) and applicable law, the Court adopts Judge Locke's comprehensive and well-reasoned R&R in its entirety as the opinion of the Court. The Court finds no clear error in the portions of Judge Locke's R&R to which there are no specific objections. Further, upon consideration of Ciambra's objections and a de novo review of the record and the portions of the R&R to which he has objected, the Court finds that Judge Locke properly recognized the unresolved issues of material fact that warrant a denial of summary judgment.

Accordingly, the Court **GRANTS** Defendants' motion for summary judgment as to Aquiar and **DENIES** the motion as to Ciambra. The Clerk of Court is respectfully directed to enter judgment accordingly, and dismiss Aquiar as a party to this action.

SO ORDERED.

Dated: September 29, 2021
Central Islip, New York

/s/ (JMA)
JOAN M. AZRACK
UNITED STATES DISTRICT JUDGE