

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

**STEVE WISEMAN, RICHARD WALSH,
JOE FIJAK, and ROBERT CALDARELLA,**

Plaintiffs,

v.

No. 3:14-cv-00420-PK
OPINION AND ORDER**NYXIO TECHNOLOGIES CORPORATION
and GIORGIO JOHNSON,**

Defendants.

MOSMAN, J.,

On October 6, 2015, Magistrate Judge Papak issued his Findings and Recommendation (F&R) [57], recommending Plaintiffs' motion for partial summary judgment [33] should be GRANTED in part as to Plaintiffs' breach of contract claims against defendant Nyxio; DENIED in part as to Plaintiffs' breach of contract claims against Defendant Johnson; Plaintiffs be awarded damages in the amount of \$487,785.10; and Plaintiffs' misrepresentation claims should be DISMISSED. No objections to the Findings and Recommendation were filed.

DISCUSSION


The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a *de novo* determination regarding those portions of the report or specified findings or

recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, *de novo* or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Papak's recommendation and I ADOPT the F&R [57] as my own opinion.

IT IS SO ORDERED.

DATED this 2d day of November, 2015.


MICHAEL W. MOSMAN
United States District Judge