

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

FRANCISCO ALMEIDA-LEÓN,)	
et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil No. 3:16-cv-01394-JAW-BJM
)	
WM CAPITAL MANAGEMENT,)	
INC.)	
)	
Defendant.)	

ORDER ON WAIVER

On May 9, 2019, the Court issued an amended order, granting summary judgment to the Defendant/Counter-Plaintiff. *Am. Order on Def./Counter-Pl.'s Mot. for Summ. J.* (ECF No. 265). In the order, the Court ordered WM Capital Management, Inc. (WM) to submit a proposed judgment within seven days of the date of the amended order. *Id.* at 72. The Court further ordered the Plaintiffs “to file any specific objections to the proposed judgment within seven days of WM Capital Management, Inc.’s filing of the proposed judgment.” *Id.* at 72-73. As the Court has been acutely aware that this case has been especially acrimonious and tenaciously litigated, the manifest purpose of this Order was not to receive the Plaintiff’s disagreement with the merits of the order, which the Court assumed. The purpose of the order was to obtain guidance from the parties as to the proper terms of the judgment in this complex and fraught case.

On May 16, 2019, WM submitted a proposed judgment. *Mot. Submitting Proposed J.* (ECF No. 269). On May 23, 2019, the Plaintiffs filed an objection to the proposed judgment. *Resp. and Objs. to Proposed J. in Dockets # 269, # 269-1 and # 269-2* (ECF No. 272). The Plaintiffs also filed a series of exhibits in support of their objection. *Notice of Filing App. to Pls. Docket Entry No. 272* (ECF No. 273); *Notice of Filing App. to Pls. Docket Entry No. 272* (ECF No. 274); *Notice of Filing App. to Pls. Docket Entry No. 272* (ECF No. 275); *Notice of Filing App. to Pls. Docket Entry No. 272* (ECF No. 276).

On May 28, 2019, WM filed a motion, asking that the Court deem WM's proposed judgment unopposed because the Plaintiffs failed to raise any specific objections to its proposed judgment. *Mot. to Deem Proposed J. Unopposed* (ECF No. 277). On June 4, 2019, the Plaintiffs moved to file a surreply to WM's May 28, 2019 motion. *Mot. for Br. Extension of Time for Leave to File Surreply in Resp. to WMC's Mot. to Deem Proposed J. Unopposed (Dkt. #277)* (ECF No. 282). On June 5, 2019, the Court issued an order, granting the Plaintiffs' motion for brief extension of time to file surreply, and requiring the Plaintiffs to file such a surreply by June 11, 2019. *Order Granting Pls.' Mot. for Surreply* (ECF No. 283). On June 11, 2019, the Plaintiffs filed a surreply. *Opp'n to Docket 277; Purported Unopposed Proposed J.* (ECF No. 285).

Having reviewed the parties' submissions, the Court agrees with WM that the Plaintiffs waived the right to challenge the specifics in its proposed judgment. In its May 9, 2019 order, the Court made it clear that it was offering the Plaintiffs an

opportunity to object to and comment on the specifics of the proposed judgment. The Plaintiffs failed to present the Court with any specific objections to the language of the judgment proposed by WM and proceeded instead to attack the overall merits of the May 9, 2019 order.

The Court offered WM an opportunity to propose the language the Court should include in its final judgment consistent with its summary judgment order and the Plaintiffs an opportunity to object to that language. The Plaintiffs eschewed the Court's directive to make specific objections and they waived the right to do so. *See Warner v. The Horned Dorset Primavera, Inc. (In re Blomquist)*, No. 17-1856, 2019 U.S. App. LEXIS 16323, at *20, n.16 (1st Cir. May 31, 2019) (an argument not properly fleshed out is waived); *United States v. Zannino*, 895 F.2d 1, 17 (1st Cir. 1990). The Court is reviewing the proposed judgment to determine whether it is otherwise proper and in short order, it will issue an order, explaining its decisions, and will issue a final judgment.

The Court GRANTS WM Capital Management, Inc.'s Motion to Deem Proposed Judgment Unopposed (ECF No. 277).

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 26th day of June, 2019.