

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION**

JAMES DEWAR,

Plaintiff,

v.

Case No. 5:23-cv-677-MMH-PRL

DIRECT INTERACTIONS, INC.,

Defendant.

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**ORDER**

**THIS CAUSE** is before the Court on the Report and Recommendation (Dkt. No. 35; Report), entered by the Honorable Philip Lammens, United States Magistrate Judge, on June 26, 2024. In the Report, Judge Lammens recommends that Defendant’s Motion to Dismiss (Dkt. No. 9) be granted, in part, and denied, in part. See Report at 1, 11. No objections to the Report have been filed, and the time for doing so has now passed.

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). Pursuant to Rule 72, Federal Rules of Civil Procedure (Rule(s)), the Court “must determine de novo any part of the magistrate judge’s disposition that has been properly objected to.” See Rule 72(b)(3); see also 28 U.S.C. § 636(b)(1).

However, a party waives the right to challenge on appeal any unobjected-to factual and legal conclusions. See 11th Cir. R. 3-1.<sup>1</sup> As such, the Court reviews those portions of the Magistrate Judge’s findings to which no objection was filed for plain error and only if necessary, in the interests of justice. See id.; see also Thomas v. Arn, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate [judge’s] factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.”); Dupree v. Warden, 715 F.3d 1295, 1304-05 (11th Cir. 2013) (recommending the adoption of what would become 11th Circuit Rule 3-1 so that district courts do not have “to spend significant amounts of time and resources reviewing every issue—whether objected to or not.”).

Upon independent review of the file and for the reasons stated in the Magistrate Judge’s Report, the Court will accept and adopt the legal and factual conclusions recommended by the Magistrate Judge. Accordingly, it is hereby

**ORDERED:**

1. The Magistrate Judge’s Report and Recommendation (Dkt. No. 35) is **ADOPTED** as the opinion of the Court.

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<sup>1</sup> The Magistrate Judge properly informed the parties of the time period for objecting and the consequences of failing to do so. See Report at 1 n.1.

2. Defendant's Motion to Dismiss (Dkt. No. 9) is **GRANTED, in part, and DENIED, in part.**
3. The Motion is **GRANTED** to the extent that Count I of Plaintiff's Complaint is **DISMISSED.**
4. The Motion is **DENIED** to the extent Defendant seeks dismissal of Counts II and III.

**DONE AND ORDERED** in Chambers this 18th day of July, 2024.

  
**MARCIA MORALES HOWARD**  
United States District Judge

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Copies to:

Counsel of Record