IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SHEENA ROBINSON, individually and as the Administratrix of the Estate of Rodney Keith Robinson, II, Plaintiff, v. PATROLMAN DYLAN EBKE, INDIVIDUALLY, and TOWN OF DEWEY BEACH, Defendants.	)	C.A. No. 23-308-JLH
SHEENA ROBINSON, individually and as the Administratrix of the Estate of Rodney Keith Robinson, II, Plaintiff, v. OFFICER JOHN RHODES, individually, TOWN OF DEWEY BEACH, JOHN DOE #1, JOHN DOE #2, and 2009 LLC d/b/a THE STARBOARD Defendants.	)	C.A. No. 24-347-JLH

ORDER

At Wilmington, this 3rd day of September 2025,

WHEREAS, Magistrate Judge Fallon issued a Report and Recommendation on June 2, 2025 (No. 23-308, D.I. 42; No. 24-347, D.I. 36), recommending that the Court GRANT the Motion to Dismiss Under Federal Rule of Civil Procedure 12(b)(6) of Defendants John Doe #1, John Doe #2, and 2009 LLC d/b/a The Starboard (together, the "Starboard Defendants") (No. 24-347-JLH, D.I. 25);

WHEREAS, on June 16, 2025, Plaintiff filed objections to the Magistrate Judge's recommendation that the Court grant the Starboard Defendants' Motion to Dismiss (No. 23-308, D.I. 46; No. 24-347, D.I. 38);

WHEREAS, on June 30, 2025, the Starboard Defendants filed a response (No. 23-308, D.I. 52);

WHEREAS, Plaintiff's objections violate this Court's standing order by failing to include a written statement certifying the objections do not raise new arguments, and the objections will be overruled for that reason;[1]

WHEREAS, the Court has nevertheless reviewed the Report and Recommendation *de novo*, *see* 28 U.S.C. § 636(b)(1);

WHEREAS, the Starboard Defendants comprise a private business and its employees;

WHEREAS, Plaintiff has cited no authority (from Delaware or elsewhere) standing for the proposition that a private business or its employees can be held liable in tort for a plaintiff's injuries received at the hands of the police, where the private business's only role in the situation was telling the police that the plaintiff had a concealed weapon on the premises;

WHEREAS, the absence of legal authority supporting Plaintiff's tort claims against the Starboard Defendants is not surprising because, under the *Noerr-Pennington* doctrine, a legitimate petition to the police is constitutionally protected (i.e., privileged) conduct, *see, e.g.*, *Venetian*

[1] Standing Order for Objections Filed under Fed. R. Civ. P. 72 (D. Del. Mar. 7, 2022) (available on the Court's website) ("Any party filing objections with a District Judge to a Magistrate Judge's order, ruling or recommended disposition **must** include, along with the objections, a written statement either certifying that the objections do not raise new legal/factual arguments, or identifies the new arguments and describes the good cause for failing to previously raise the new legal/factual arguments before the Magistrate Judge." (emphasis in original)); *see also Barry v. Stryker Corp.*, No. 20-1787, 2023 WL 3224498, at *1 (D. Del. May 3, 2023) ("This is not some arcane requirement. It is a practical one, designed to make referrals to magistrate judges as efficient as the referral system can be.").

Casino Resort, L.L.C. v. N.L.R.B., 793 F.3d 85, 92 (D.C. Cir. 2015); *cf. Nrecaj v. Yono*, 434 N.W.2d 210, 211 (1988), and there is no allegation that the Starboard Defendants' reports to the police were false, much less any suggestion that the reports were shams, *see Venetian Casino* 793 F.3d at 92;

NOW, THEREFORE, IT IS HEREBY ORDERED that Plaintiff's objections (No. 23-308, D.I. 46; No. 24-347, D.I. 38) are OVERRULED, the Report and Recommendation (No. 23-308, D.I. 42; No. 24-347, D.I. 36) is ADOPTED, and the Starboard Defendants' Motion to Dismiss (No. 24-347-JLH, D.I. 25) is GRANTED.

The Honorable Jennifer L. Hall
UNITED STATES DISTRICT JUDGE