

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RED DRAGON PARTNERS, LLC,

Plaintiff,

v.

TRUTHMD, LLC, GEMMA CUNNINGHAM,
CHARLES D. ROSEN, GARY L. WILSON, and
MORGAN ST. JOHN,

Defendants.

C.A. No. 24-450-JLH-SRF

ORDER

At Wilmington this 25th day of August, 2026;

WHEREAS, Magistrate Judge Fallon issued a Report & Recommendation on March 17, 2026 (D.I. 142, the “R&R”), recommending that the Court grant-in-part Defendants’ Motion for Partial Summary Judgment (D.I. 82);

WHEREAS, on March 31, 2026, Defendants filed a Limited Objection to the R&R (D.I. 148);

WHEREAS, on April 13, 2026, Plaintiff filed a Response (D.I. 150);

WHEREAS, the Court reviews objections to a Magistrate Judge’s recommendation on a motion for summary judgment *de novo*, see 28 U.S.C. § 636(b)(1)(C);

WHEREAS, Defendants’ Limited Objection states that “Defendants do not contest the substantive recommendations but seek modification to clarify that any denial of summary judgment is without prejudice to refileing or renewal following further discovery and development of the record” (D.I. 148 at 1);

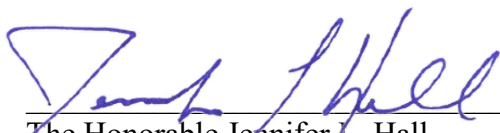
WHEREAS, the Court concludes that Defendants' Limited Objection (D.I. 148) should be overruled;¹

WHEREAS, no party filed objections to the R&R's substantive recommendations pursuant to Rule 72(b)(2) of the Federal Rules of Civil Procedure in the prescribed period, and the Court finding no clear error on the face of the record;

NOW, THEREFORE, IT IS HEREBY ORDERED that

1. Defendants' Limited Objection To Report and Recommendation (D.I. 148) is OVERRULED.
2. The R&R (D.I. 142) is ADOPTED.
3. Defendants' Motion for Partial Summary Judgment (D.I. 82) is GRANTED as to Defendant TruthMD. TruthMD is granted summary judgment on Count V.
4. Defendants' Motion for Partial Summary Judgment (D.I. 82) is DENIED as to Defendants Gemma Cunningham, Charles D. Rosen, Gary L. Wilson, and Morgan St. John.

Dated: August 25, 2026


The Honorable Jennifer L. Hall
UNITED STATES DISTRICT JUDGE

¹ Defendants did not raise this issue before Judge Fallon so Defendants' Limited Objection is denied on that basis. *In re Nat'l Collegiate Student Loan Trusts 2003-1, 2004-1, 2004-2, 2005-1, 2005-2, 2005-3*, 971 F.3d 433, 444 (3d Cir. 2020) ("Arguments not presented to a magistrate judge and raised for the first time in objections to the magistrate's recommendations are deemed waived."). Defendants concede that they did not raise this issue before Judge Fallon. (D.I. 149.)

Defendants' Limited Objection is not really an objection to the R&R at all but instead is properly characterized as a request for leave to file another summary judgment motion. Because this case has been referred to Judge Fallon for "all pretrial proceedings, up to and including motions for summary judgment," Defendants' request should be presented to Judge Fallon in the first instance. (D.I. 61.) I therefore reject Defendants' contention that they had good cause for failing to raise this issue before Judge Fallon. (D.I. 149.)