

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOHN EAKIN,)
)
Plaintiff,)
)
V.)
)
AMERICAN BATTLE MONUMENTS)
COMMISSION, MAX CLEVELAND,)
in his Official Capacity as Secretary of)
the American Battle Monuments)
Commission; U.S. DEPARTMENT OF)
DEFENSE, LEON E. PANETTA, in his)
in his Official Capacity as Secretary of)
Defense; W. MONTAGUE WINFIELD,)
in his Official Capacity as Deputy)
Assistant Secretary of Defense for POW/)
Missing Personnel Affairs; and JOHNNIE)
E. WEBB, in his Official Capacity as)
Deputy to the Commander for External)
Relations and Legislative Affairs, Joint)
POW/MIA Accounting Command,)
)
Defendants.)

CIVIL ACTION NO. SA-12-CA-1002-FB

ORDER OF REFERRAL

In accordance with the authority vested in the United States Magistrate Judge pursuant to Local Rule CV-72 and Appendix C, Local Rules for the Assignment of Duties to United States Magistrates, and 28 U.S.C. § 636(b), the instant action is hereby REFERRED to United States Magistrate Judge Henry J. Bemporad for pretrial proceedings including any requests for injunctive relief.

I. MATTERS REFERRED

This reference confers the following duties upon the Magistrate Judge to whom this case is assigned, the parties and their counsel:

(1) The Magistrate Judge shall issue a Scheduling Order or an Order for Scheduling Recommendations in accordance with the well-established practice of the undersigned. The Magistrate Judge shall enter a scheduling order. The Magistrate Judge has discretion to extend or otherwise modify deadlines in the scheduling order upon a showing of good cause; however, once the Magistrate Judge has ruled on any matter, objections to and/or appeals from the Magistrate Judge's rulings shall not be considered good cause for the extension of any deadline.

(2) The parties shall indicate to the District Clerk in writing whether they are willing to consent to trial before the Magistrate Judge pursuant to 28 U.S.C. § 636(c)(2) when ordered to do so by the Magistrate Judge.

(3) The Magistrate Judge shall rule on all pretrial motions, pursuant to 28 U.S.C. § 636(b)(1)(A). Where the Magistrate Judge's authority to make rulings is limited by statute, a recommendation to this Court shall be made in lieu of an order, pursuant to 28 U.S.C. § 636(b)(1)(B) and (c); unless all parties consent that the Magistrate Judge may rule on such otherwise exempt matters, pursuant to 28 U.S.C. § 636(c)(1).

(4) Unless the parties have consented to proceed to trial before the Magistrate Judge in accordance with Paragraph (2), supra, the Magistrate Judge shall return the case to this Court upon the submission of the proposed pretrial order and the ruling and/or filing of recommendations on all pretrial motions pending at the time the pretrial order is submitted.

II. MATTERS NOT REFERRED

This reference includes any pretrial matter not specifically mentioned above; however, this reference does not include the following:


(1) Settlement Agreements. Should the parties reach a settlement of this case, they should contact the chambers of the undersigned in writing or telephonically. Upon being informed of a settlement, this Court will enter such orders as it finds proper to resolve the case.

III. OBJECTIONS AND APPEALS

Appeals from the Magistrate Judge's orders and objections to the Magistrate Judge's recommendations shall be made in compliance with 28 U.S.C. § 636(b)(1), Rule 72 of the Federal Rules of Civil Procedure, and Rule 4 of Appendix C to the Local Rules. Such objections and appeals shall be limited to issues first raised before the Magistrate Judge; failure to bring any defect in any order or recommendation to the attention of the Magistrate Judge prior to raising the issue before this Court shall be deemed a waiver of issue.

It is so ORDERED.

SIGNED this 29th day of October, 2012.



FRED BIERY
CHIEF UNITED STATES DISTRICT JUDGE