

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

JOHN EAKIN,

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Plaintiff,

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v.

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SA-12-CA-1002 FB (HJB)

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**AMERICAN BATTLE MONUMENTS
COMMISSION, et al.**

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Defendants.

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JOINT REPORT ON ALTERNATE DISPUTE RESOLUTION

Plaintiff and Defendants file a Joint Report on Alternate Dispute Resolution in accordance with Local Rule CV-88(b) and the Court's order of December 4, 2013 (Docket 44, paragraph 4).

1. Neither side believes that ADR will resolve the issues in this case. Plaintiff seeks to have Defendants disinter remains designated as X-816 located in an American military cemetery in Manila, Philippines, and identify those remains as Private Arthur Kelder. Defendants do not agree to such a demand.

2. In accordance with the Court's guidance issued on December 19, 2013 (Docket 49, page 1) both sides agree to request that a magistrate (other than the referring Magistrate, Honorable Henry J. Bemporad) be assigned to mediate this case without fee. Both sides are amenable to Honorable Pamela A. Mathey as an appointed mediator.

3. Further, in accordance with Local Rule CV-88(b), the parties report the following:

a. The parties' counsel concluded conferring on ADR on February 18, 2014. No settlement appears to be forthcoming.

b. The identity of the person responsible for settlement negotiations for the Plaintiff is John Eakin. In civil cases against the federal government, settlement authority is committed by statute to the Attorney General, *see* 28 U.S.C. § 519, who in turn has delegated the authority to settle matters to various senior officials within DOJ, depending on the nature of the case and proposed settlement, *see* 28 C.F.R. §§ 0.160-0.172. Defendants will be represented at mediation by Assistant U.S. Attorney Susan Strawn, who has authority to engage in settlement negotiations and submit a recommendation for settlement to the relevant Department of Justice officials.

c. The parties' evaluations on whether ADR is appropriate for this case are that resolution via ADR is unlikely.

d. The parties' choice for the method of ADR, if required, is by mediation.

WHEREFORE, Plaintiff and Defendants pray that this report sufficiently accounts for their ADR obligations.

Respectfully submitted,

_____/S/
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