

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FT. PIERCE DIVISION

Case No. 12-14439-CIV-GRAHAM/GOODMAN¹

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

vs.

BAY STATE MILLING COMPANY,

Defendant.

Case No. 13-14032-CIV-GRAHAM/GOODMAN

GARY LEGORE,

Plaintiff,

vs.

BAY STATE MILLING COMPANY,

Defendant.

ORDER

THIS CAUSE comes before the Court upon U.S. Magistrate Judge Jonathan Goodman's Order and Omnibus Report and Recommendation on Cross-Motions Regarding Vacating or Enforcing Settlement. [Case No. 12-14439, D.E. 91; Case No. 13-14032, D.E. 95].

¹ Although U.S. Magistrate Judge Frank J. Lynch, Jr. is the magistrate judge assigned to cases appearing in the Ft. Pierce Division, the Court specifically referred these related cases to U.S. Magistrate Judge Jonathan Goodman to conduct a settlement conference and for a report and recommendation on the subsequent issues raised concerning the settlement conference.

THE MATTER was referred to the Honorable United States Magistrate Judge Jonathan Goodman pursuant to 28 U.S.C. § 636 and the Magistrate Rules for the Southern District of Florida. [Case No. 12-14439, D.E. 79; Case No. 13-14032, D.E. 87]. Judge Goodman has issued a Report and Recommendation [Case No. 12-14439, D.E. 91; Case No. 13-14032, D.E. 95] (the "Magistrate Judge's Report") for this Court's consideration recommending that the Court:

- (1) deny Mr. Legore's motion to vacate the settlement;
- (2) grant in part and deny in part Bay State's motion to enforce settlement by: (i) ordering Mr. Legore to execute a W-9 form; (ii) requiring Bay State to, as soon as practicable, pay Mr. Legore after he provides Bay State with his W-9 form; and (iii) denying Bay State's request for attorney's fees, and (3) deny the EEOC's cross-motion.

[Case No. 12-14439, D.E. 91 at 19-20; Case No. 13-14032, D.E. 95 at 19-20].

Pursuant to 28 U.S.C. §636(b)(1) and Local Magistrate Rule 4(a), the Parties had fourteen (14) days after being served with a copy of the Magistrate Judge's Report to serve and file written objections, if any, with the Court. Mr. Legore is the only party to timely file written objections. [Case No. 12-14439, D.E. 94; Case No. 13-14032, D.E. 98]. The Court has not received any responses to Mr. Legore's objections and the time to do so has passed. As such, this matter is now ripe for the Court's review.

Accordingly, the Court "shall make a de novo determination of those portions of the report of specified proposed findings or recommendations to which objection is made. [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) (1) (C). Thus, the Court is required to "give fresh consideration to those issues to which specific objection has been made by a party." Jeffrey S. v. State Bd. Of Educ., 896 F.2d 507, 512 (11th Cir. 1990). Additionally,

[A] party that wishes to preserve its objection must clearly advise the district court and pinpoint the specific findings that the party disagrees with This rule facilitates the opportunity for district judges to spend more time on matters actually contested and produces a result compatible with the purposes of the Magistrates Act.

Brown v. U.S., 2013 WL 4482494, *1 (N.D. Ga. 2013) (quoting U.S. v. Schultz, 565 F.3d 1353, 1360-61 (11th Cir. 2009)). However, "[f]rivolous, conclusive, or general objections need not be considered by the district court." Marsden v. Moore, 847 F.2d 1536, 1548 (11th Cir. 1988).

Upon review, the Court notes that Mr. Legore does not make any specific objections regarding the findings of fact or law in the Magistrate Judge's Report. Mr. Legore simply avers that "[i]t is obvious there was no meetings of the minds total agreement [sic] in settlement negotiations or at the status conference hearing January 22nd, 2014" and includes unrelated statements regarding the dismissal of his attorney and his inability to obtain gainful employment because of these pending actions. [Case No. 12-14439, D.E. 94; Case No. 13-14032, D.E. 98]. Mr. Legore's objections do

not include any additional information or citation to legal authority beyond the aforementioned general and conclusory statements. Consequently, Mr. Legore's objections will not be considered by the Court. Marsden, 847 F.2d at 1548.

Even if, for arguments sake, the Court were to consider Mr. Legore's general statement concerning the settlement conference as a specific objection, the record belies his argument that there was no meeting of the minds. Specifically, Judge Goodman noted the enforceable nature of the oral settlement agreement, carefully outlined its terms for the record, and considered each party's position regarding acceptance. [Case No. 12-14439, D.E. 77 at 9-11; Case No. 13-14032, D.E. 86 at 9-11]. With respect to Mr. Legore's position, an excerpt from the transcript of the settlement conference reads as follows:

THE COURT: You are all free later on to generate additional paperwork to memorialize the settlement agreement, but what we are going to do here today on the record will in and of itself be an enforceable settlement agreement.

The settlement agreement will be for both cases combined. The defendant will be paying \$150,000 which will include attorneys' fees and costs. And, in addition, the defendant will be agreeing to a consent decree.

* * *

THE COURT: All right. Very well. Now, from the individual plaintiff's perspective, Mr. Legore, is this, in fact, what you have agreed to?

MR. LEGORE: Yes, it is.

Id. Thus, the record shows that Mr. Legore unequivocally understood and agreed to the terms of the settlement agreement. As a result, had Mr. Legore specifically objected on this point, his objection would be overruled. Accordingly, it is hereby:

ORDERED AND ADJUDGED that the Magistrate Judge's Report [Case No. 12-14439, D.E. 91; Case No. 13-14032, D.E. 95] is **AFFIRMED, ADOPTED, AND RATIFIED** in its entirety and is incorporated into this Order by reference. It is further

ORDERED AND ADJUDGED that Gary Legore's Motions to Vacate Settlement [Case No. 12-14439, D.E. 78; Case No. 13-14032, D.E. 87] are **DENIED** on the grounds stated herein and in the Magistrate Judge's Report. It is further

ORDERED AND ADJUDGED that Bay State Milling Company's incorporated Motion to Enforce Settlement [Case No. 13-14032, D.E. 90; 91] is **GRANTED IN PART** and **DENIED IN PART** as follows:

- (1) Gary Legore is hereby **ORDERED** to fully execute an IRS Form W-9 and return the same to Bay State Milling Company's counsel within ten (10) days from the entry of this Order;
- (2) Upon receipt of the fully executed Form W-9 from Gary Legore, Bay State Milling Company shall forward the net settlement proceeds to Gary

Legore's address on record forthwith; and
(3) Bay State Milling Company's request for attorneys' fees and costs is **DENIED**. It is further

ORDERED AND ADJUDGED that the Equal Employment Opportunity Commission's incorporated Cross-Motion Requesting Bay State Milling Company to Demonstrate Compliance with the Consent Decree [Case No. 12-14439, D.E. 86] is **DENIED**.

DONE AND ORDERED in Chambers at Miami, Florida, this 17th day of August, 2014.



DONALD L. GRAHAM
UNITED STATES DISTRICT JUDGE

cc: U.S. Magistrate Judge Goodman

All Counsel of Record

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