

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-02802-REB-MEH

JEREMY C. MYERS,

Plaintiff,

v.

BRIAN KOOPMAN, in his individual and official capacities,

Defendant.

RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

Michael E. Hegarty, United States Magistrate Judge.

This matter comes before the Court *sua sponte*. The parties appeared for a status conference on June 29, 2011 in this matter following Judge Blackburn's order granting in part and denying in part the pending motion to dismiss and his order to lift the stay of discovery. Defense counsel explained his understanding of Judge Blackburn's orders concerning the limited scope of discovery that will be allowed at this juncture in the case, and Plaintiff's counsel objected. This Court advised the parties that they must file a motion concerning this disputed matter.

Some discovery has taken place in this case; however, due to the number of dispositive motions filed and requests for stays on discovery, the majority of discovery has not yet occurred. Thus, despite the dispute as to the scope of discovery, this Court finds it prudent, in the interests of justice and efficiency, to set a schedule at this time to allow the parties to commence discovery.

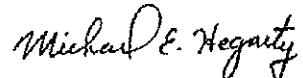
On March 25, 2011, Judge Blackburn set the trial in this case for September 26, 2011 and the trial preparation conference before his honor for September 9, 2011. *See Second Trial*

Preparation Order, docket #129. Unfortunately, however, the parties will require at least 120 days within which to conduct any remaining discovery in this case. The Court finds this a reasonable time period under the circumstances. Consequently, the Court approved a schedule setting a discovery cutoff for October 31, 2011 and a dispositive motions deadline for November 30, 2011 on the condition that the current trial dates may be vacated.

Because the majority of discovery has not taken place in this case, the Court respectfully RECOMMENDS¹ that the District Court vacate and reschedule the current trial dates to allow the parties in this matter to conduct meaningful discovery before trial under an abbreviated schedule.

Dated at Denver, Colorado, this 30th day of June, 2011.

BY THE COURT:



Michael E. Hegarty
United States Magistrate Judge

¹Be advised that all parties shall have fourteen (14) days after service hereof to serve and file any written objections in order to obtain reconsideration by the District Judge to whom this case is assigned. Fed. R. Civ. P. 72(b). The party filing objections must specifically identify those findings or recommendations to which the objections are being made. The District Court need not consider frivolous, conclusive or general objections. A party's failure to file such written objections to proposed findings and recommendations contained in this report may bar the party from a *de novo* determination by the District Judge of the proposed findings and recommendations. *United States v. Raddatz*, 447 U.S. 667, 676-83 (1980); 28 U.S.C. § 636(b)(1). Additionally, the failure to file written objections to the proposed findings and recommendations within fourteen (14) days after being served with a copy may bar the aggrieved party from appealing the factual findings of the Magistrate Judge that are accepted or adopted by the District Court. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *Niehaus v. Kansas Bar Ass'n*, 793 F.2d 1159, 1164 (10th Cir. 1986).