

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

MT. HEBRON DISTRICT MISSIONARY *
BAPTIST ASSOCIATION OF AL, *
INC., *

Plaintiff, *

vs. *

SENTINEL INSURANCE COMPANY, *
LIMITED, *

CASE NO. 3:16-CV-658-CDL-GMB

Defendant. *

vs. *

LANDON ALEXANDER, SR., *

Third-Party Defendant *

O R D E R

There are two issues presently pending before the Court in this action. First, attorney Kenneth Funderburk objects to the U.S. Magistrate Judge's Order disqualifying his firm from representing Plaintiff Mt. Hebron District Missionary Baptist Association of Alabama, Inc. in this case. He seeks review of the disqualification order under 28 U.S.C. § 636(b)(1)(A). Second, Mt. Hebron objects to the Magistrate Judge's recommendation that Mt. Hebron's pre-discovery summary judgment motion be denied. The Court will address each issue in turn.

I. Order Disqualifying Funderburk & Lane

Third-party Defendant Landon Alexander, Sr. moved to disqualify the law firm of Funderburk & Lane from representing Plaintiff Mt. Hebron District Missionary Baptist Association of Alabama, Inc. in this action. The U.S. Magistrate Judge, who has been designated to handle non-dispositive pretrial matters in this action, granted the motion, finding that attorney Kenneth Funderburk and his firm should be disqualified from representing Mt. Hebron in this matter due to a conflict of interest. Order, Sept. 7, 2017, ECF No. 102. Funderburk moved for reconsideration of the Magistrate Judge's ruling under 28 U.S.C. § 636(b)(1)(A), which provides that a U.S. District Judge "may reconsider any pretrial matter" that had been designated to a Magistrate Judge "where it has been shown that the magistrate judge's order is clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A).

The Court reviewed the Magistrate Judge's order and Funderburk's objection to it. The Court also reviewed the materials that the Magistrate Judge relied on in his order, including Funderburk's affidavit (ECF No. 90-1) and Alexander's affidavit (ECF No. 87-1). Based on this review, the Court cannot find that the Magistrate Judge committed clear error or that his order was contrary to the law. Rather, the Court concludes that the Magistrate Judge's well-reasoned order is

supported by both the record and the law. Accordingly, the Court declines to reconsider the Magistrate Judge's order.

II. R&R Recommending Denial of Mt. Hebron's Pre-Discovery Summary Judgment Motion

After a *de novo* review of the record in this case, the Report and Recommendation of the Magistrate Judge filed September 14, 2017 (ECF No. 104), is hereby approved, adopted, and made the Order of the Court.

Mt. Hebron's objections have been considered and are found to be without merit. Accordingly, Mt. Hebron's pre-discovery "Renewal of Motion to Dismiss and Motion for Summary Judgment" (ECF No. 94), which the Magistrate Judge construed as a motion only for summary judgment, is denied, with leave to refile at the conclusion of discovery or after the factual record has been developed more fully.

IT IS SO ORDERED, this 27th day of September, 2017.

S/Clay D. Land

CLAY D. LAND
U.S. DISTRICT COURT JUDGE