

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

RED RIVER RESOURCES, INC.,)
)
Plaintiff,)
)
vs.)
)
MARINER SYSTEMS, INC.,)
XYBERSECURE, INC., CARLOS M.)
COLLAZO, NEIL M. PARK, ROBERT A.)
ORTALDA, JR., and RICK MAHARAJ,)
)
Defendants.)

No. 2:11-cv-2589-HRH

_____)
)
MARINER SYSTEMS, INC.,)
)
Counterclaim-Plaintiff,)
)
vs.)
)
RED RIVER RESOURCES, INC., and)
KARL ELLER,)
)
Counterclaim-Defendants.)
_____)

SPECIAL MASTER’S REPORT AND RECOMMENDATION
REGARDING ENTRY OF JUDGMENT

Plaintiff Red River Resources, Inc. (“Red River”), Defendant Collazo and Counterclaim-Defendants Red River and Karl Eller have reached a settlement but are unable to reach agreement as to the form of Judgment. The Special Master and the parties have spent considerable time seeking to reach such an agreement, but are unable to do so. The parties and their counsel have, at all times, worked cooperatively and in good faith.

One of the parties has requested that the issues related to the form of judgment be heard ab initio by Your Honor. The Special Master's reading of his authority as reflected in the Order of Appointment (Docket No. 183), thus precludes a recommendation on the related issues.¹ Regrettably, even a recommended briefing schedule becomes intertwined with the parties' positions on the merits, given the interplay with the Bankruptcy Court.

For these reasons, the Special Master's recommendation is that the parties submit to the Court by Friday September 27, 2013, the following:

- 1) A form of judgment acceptable to that party;
- 2) Any motions which the party considers to relate to the entry of judgment; and
- 3) A proposed briefing schedule for any motions filed by that party or, if a party has not filed any motions, a proposed briefing schedule for any motions expected to be filed by the opposing party.

After receiving these documents, this Court will be in a position to resolve the issues before it on a timetable it determines to be appropriate. The Special Master will continue to be available pursuant to the Order of Appointment as needed by the Court or requested by the parties.

Dated: September 19, 2013

/s/ Daniel A. Barker
Judge Daniel A. Barker (Ret.)
Special Master
2838 E. Cotton Court
Gilbert, Arizona 85234
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¹ This issue is not a discovery matter. In those instances, the Order of Appointment authorizes the Special Master to perform the following: "Perform duties consented to by the parties . . . Make recommendations for pre-trial management or other actions that may expedite this matter, make it more economical for the parties, or otherwise enhance the administration of justice in this matter." (Docket No. 183, ¶ 5 (a) and (d). Given the lack of agreement under 5 (a), the Special Master is not of the opinion that 5 (d) is satisfied with regard to this particular issue.