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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
on behalf of its agency,
U.S. SMALL BUSINESS
ADMINISTRATION,

Plaintiff,

v.

EDF RESOURCE CAPITAL, INC.
and REDEMPTION RELIANCE, LLC,

Defendants.

No. CIV. S-13-1158 LKK/EFB

ORDER

This is a proceeding brought under the Federal Debt Collections Procedures Act of 1990, 28 U.S.C. §§ 3001, et seq. The Local Rules of this court provide that "[a]ll motions brought pursuant to the Federal Debt Collections Procedures Act of 1990, 28 U.S.C. § 3001 et seq.," are among the duties assigned to the Magistrate Judge. E.D. Cal. R. ("Local R.") 302(c)(7). In addition, 28 U.S.C. § 3008 provides that "[a] district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate judge to the extent not inconsistent with the Constitution and laws of the United

1 States.”

2 The Local Rules also provide that the district judge “may
3 retain any matter otherwise routinely referred to a Magistrate
4 Judge,” but that “[a]pplications for retention of such matters ...
5 are looked upon with disfavor and granted only in unusual and
6 compelling circumstances.” Local R. 302(d).

7 Defendants and the proposed intervenor have moved to have
8 this case heard by a district judge, rather than by a Magistrate
9 Judge. They argue that unusual and compelling circumstances
10 exist here, because referring these matters to the Magistrate
11 Judge would “transgress constitutional limitations on [28 U.S.C.
12 §§ 636 and 3008], by allowing a magistrate judge to review a
13 decision of a federal district court judge.” ECF No. 62-1 at 6.
14 The government has “no objection” either to retention of the case
15 or to its referral to the Magistrate Judge.

16 This matter will be referred back to the Magistrate Judge
17 pursuant to Local R. 302(c)(7). It is true that defendants seek
18 to quash the writs of attachment, garnishment and sequestration
19 approved by an order of the district court judge in the District
20 of Columbia. However, the Magistrate Judge would not be
21 “reviewing” the D.C. district judge decision. That judge issued
22 an order granting the government’s ex parte application for the
23 writs, based solely upon government’s representations, as
24 contemplated by the statute. See 28 U.S.C. § 3101.

25 Defendants have now requested an adversarial hearing.
26 Accordingly, the Magistrate Judge will make a decision based upon
27 the arguments and evidence submitted by both sides. The question
28 before the Magistrate Judge will not be whether the district

1 court was correct to issue the order based solely upon the
2 government's representations. Rather, the Magistrate Judge will
3 determine, on a full record and with input from both sides,
4 whether the writs should be quashed or not.

5 The initial ex parte procedure, the follow-up hearing, the
6 transfer to a court where defendants reside, and the assignment
7 of the motions to the Magistrate Judge, are all contemplated by
8 statute. They do not constitute unusual or compelling
9 circumstances to retain the matter by the district judge.

10 Accordingly, the court orders as follows:

11 1. The motions to retain this case may be decided based
12 upon the papers, and accordingly, the hearing scheduled for
13 February 10, 2014 is **VACATED**;


14 2. Defendant's and proposed intervenor's motions to retain
15 this case (ECF Nos. 62 & 70) are **DENIED**, and this matter is
16 hereby **REFERRED** back to the Magistrate Judge assigned to this
17 case pursuant to Local R. 302(c)(7);

18 3. The hearing on the motion to intervene (ECF No. 68) is
19 hereby **VACATED**. That motion is also referred to the Magistrate
20 Judge.

21 4. The dates previously set by this court in its October
22 31, 2013 order are hereby **VACATED**.

23 IT IS SO ORDERED.

24 DATED: February 3, 2014.

25
26 
27 LAWRENCE K. KARLTON
28 SENIOR JUDGE
UNITED STATES DISTRICT COURT