

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDWARD ALVARADO, *et al.*,

No. C 04-0098 SI; No. C 04-0099

Plaintiffs,

v.

FEDEX CORPORATION, dba FEDEX
EXPRESS,

Defendant.

**ORDER DENYING MR. McCOY'S
MOTION TO REVOKE THE ORDERS
OF REFERENCE TO SPECIAL MASTER
EDWARD SWANSON, MOTION TO
STAY ALL PROCEEDINGS RELATED
TO PLAINTIFFS' PETITIONS FOR
ATTORNEY'S FEES, AND OBJECTION
TO DOCKET NO. 1296**

Mr. McCoy has filed a "Motion to Revoke the Orders of Reference to Special Master Edward Swanson, Motion to Stay All Proceedings Related to the Plaintiffs' Petitions for Attorney's Fees, [and] Objection to the Special Master's Order Denying McCoy Leave to Specially Appear." (Docket No. 1299). The motion is scheduled for a hearing on March 20, 2007. Pursuant to Civil Local Rule 7-1(b), the Court determines that the matter is appropriate for resolution without oral argument, and VACATES the hearing.

Mr. McCoy seeks an order revoking the Court's previous orders of referral to the Special Master, and staying all proceedings related to the *Alvarado* and *Boswell* fee petitions pending the Ninth Circuit's resolution of the appeals in those cases, as well as the Court's resolution of *Alvarado v. McCoy et al.*, C 09-485 SI. Mr. McCoy also objects to the Special Master's denial of his motion to specially appear.

The Court DENIES Mr. McCoy's motions for several reasons. First, by order filed March 19, 2009, the Court, *inter alia*, struck Mr. McCoy's fee petitions in *Alvarado* and *Boswell*, and as a result of that order, most substantive proceedings pending before the Special Master involving Mr. McCoy have been terminated. Second, the Court finds Mr. McCoy's assertion that the Special Master has

1 engaged in a “witch hunt” and “inappropriate conduct” in the matters before him to be utterly baseless.
2 For all of the reasons set forth in the Court’s March 19, 2009 sanctions order, as well as the Court’s
3 Order Denying Mr. McCoy’s Motion to Disqualify the Special Master (Docket No. 988), the Court finds
4 that the Special Master has comported himself with the highest professionalism and ethical standards
5 – Mr. McCoy simply does not like the Special Master’s rulings.

6 With regard to Mr. McCoy’s request to specially appear, Mr. McCoy makes much of the fact
7 that this Court initially granted the motion, and then vacated the order and referred it to the Special
8 Master. However, as stated in the Court’s order vacating the initial order (Docket No. 1289), at the time
9 the Court granted Mr. McCoy’s order (by signing his proposed order), the Court was not aware that
10 defendant opposed the motion. In addition, because the motion to specially appear related to the fee
11 petitions then pending before the Special Master, it was appropriate to have the Special Master decide
12 that motion in the first instance. The Court has now reviewed the propriety of Mr. McCoy’s request to
13 specially appear on behalf of plaintiffs Alvarado and Boswell in the context of all the litigation
14 surrounding the fee petitions, and the Court concludes that the Special Master’s order denying Mr.
15 McCoy’s request is correct. The Court affirms the Special Master’s order and DENIES Mr. McCoy’s
16 objection.

17
18 **IT IS SO ORDERED.**

19
20 Dated: March 19, 2009

21 
22 _____
23 SUSAN ILLSTON
24 United States District Judge
25
26
27
28