Wiand v. Catholic Charities, Diocese of Venice Inc. Doc. 83

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

IN RE BURTON W. WIAND, as Receiver for VALHALLA INVESTMENT PARTNERS, L.P.; VIKING FUND, LLC; VIKING IRA FUND, LLC; VICTORY FUND, LTD.; VICTORY IRA FUND, LTD., AND SCOOP REAL ESTATE, L.P.,

Plaintiff,

vs. Case No. 8:10-cv-247-T-17MAP

CATHOLIC CHARITIES, DIOCESE OF VENICE, INC.,,

Defendants.
_____/

ORDER ON REPORT AND RECOMMENDATION

This cause is before the Court on the report and recommendation (R&R) issued by Magistrate Judge Mark A. Pizzo on February 7, 2012, wherein the Magistrate Judge recommended that the defendant's motion for partial summary judgment (Doc. 59) be denied.

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Pursuant to Rule 6.02, Rules of the United States District Court for the Middle District of Florida, the parties had fourteen (14) days after service to file written objections to the proposed findings and recommendations, or be barred from attacking the factual findings on appeal. **Nettles v. Wainwright**, 677 F.2d 404 (5th Cir. 1982) (en banc). The defendant filed objections to the report and recommendation (Doc. 81) and the receiver responded to the objections (Doc. 82).

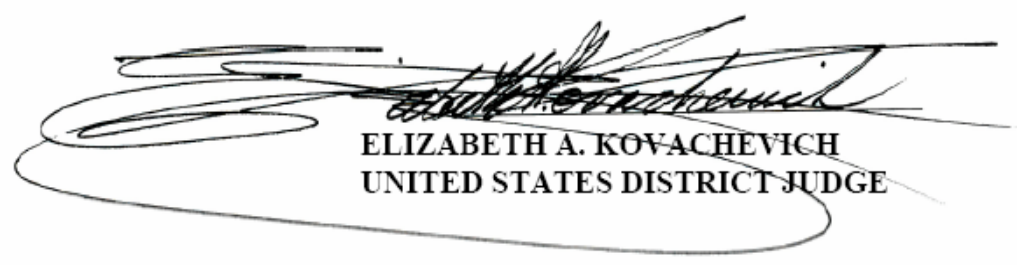
STANDARD OF REVIEW

When a party makes a timely and specific objection to a finding of fact in the report and recommendation, the district court should make a de novo review of the record with respect to that factual issue. 28 U.S.C. § 636(b)(1); **U.S. v. Raddatz**, 447 U.S. 667 (1980); **Jeffrey S. v. State Board of Education of State of Georgia**, 896 f.2d 507 (11th Cir. 1990). However, when no timely and specific objections are filed, case law indicates that the court should review the findings using a clearly erroneous standard. **Gropp v. United Airlines, Inc.,** 817 F.Supp. 1558, 1562 (M.D. Fla. 1993).

The Court has reviewed the report and recommendation and made an independent review of the record. Upon due consideration, the Court concurs with the report and recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the report and recommendation, February 7, 2012, be **adopted** and **incorporated by reference**; the objection of the defendant be **overruled;** and the motion for partial summary judgment (Doc. 59) be **denied**.

DONE and ORDERED in Chambers, in Tampa, Florida, this 7th day of March, 2012.



Copies to: All parties and counsel of record
Assigned Magistrate Judge