

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

DWIGHT J. PORTER,

Plaintiff,

v.

Case No.: 5:10-cv-206-RS-GRJ

COLONEL BAXTER ,et al.,

Defendants.

ORDER

In the Court's Order dated March 8, 2012 adopting the Report and Recommendation, Defendants Simmons, Durance, and Tyus were dropped from the case. (Doc. 57.) Plaintiff's claims against Defendants Lee, Dudley, and Baxter, however, remain for resolution by the fact finder. The Court, therefore, needs to enter an amended case management and scheduling order.

On March 21, 2012 the Court entered a Case Management And Scheduling Order (Doc. 59) which established a discovery deadline but which further provided in relevant part that: "[T]he parties are advised that a second, brief discovery period will be provided for trial preparation for those claims which will be going to trial." Doc. 59, ¶ (1). In accordance with this provision of the Case Management and Scheduling Order, the parties must file separate status reports providing in detail what, if any, additional discovery is required in the "second brief discovery period" and how much additional time is needed to complete discovery for trial preparation. If no additional discovery is required the parties shall advise the Court in the status reports that this matter should be set for trial.

Further, because of the nature of the claims in this case the parties are encouraged to consider consenting to trial before a magistrate judge. Pursuant to 28 U.S.C. § 636(c)(1) and N.D. Fla. Loc. R. 73.1 the parties may consent to full trial before the undersigned, a magistrate judge. Upon consent of the parties a magistrate judge may conduct any or all proceedings in a jury or non-jury civil matter and order the entry of judgment in the case. The parties would have the same right of appeal to the Eleventh Circuit Court of Appeals upon entry of a final judgment. The parties, of course, are entirely free to withhold such consent without any adverse consequences. If Plaintiff desires to consent, the form shall be signed and forwarded to Defendants' counsel. If Defendants consent, the form shall be signed and filed with the Clerk of Court.

In the event the parties advise in their status reports that each of them is prepared for trial, and the parties consent to trial before the undersigned magistrate judge, the Clerk is directed to refer the case to the undersigned and a trial will be scheduled for a date certain. If consent is not given, the Clerk shall refer the file to the assigned district judge for scheduling the trial consistent with his trial schedule.

Accordingly, it is **ORDERED**:

1. The parties shall file their status reports by **March 4, 2013** advising the Court of the status of discovery, and whether this case is ready to proceed to trial.
2. The Clerk of Court shall send the parties a consent form in accordance with 28 U.S.C. § 636(c)(2).
3. If Plaintiff wishes to consent, within fifteen days from the date of this order he

shall sign the form and send it to Defendant's counsel. If Defendant consents, the form shall be signed and filed within 10 days of receipt.

DONE AND ORDERED this 11th day of February 2013.

s/ Gary R. Jones
GARY R. JONES
United States Magistrate Judge