

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

HUMBERTO GUSTAVO MENENDEZ, )  
*et al.*, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 WAL-MART STORES EAST LP, *et al.*, )  
 )  
 Defendants. )

Case No. 1:10-CV-53 JD

ORDER

On January 24, 2011, a telephonic status conference was held before Magistrate Judge Roger B. Cosby, wherein choice of law issues were discussed. As a result, Magistrate Judge Cosby set briefing deadlines to determine the applicable law in this case. *See* DE 203. Thereafter, on February 22, 2011, the Defendants filed a motion for determination of applicable law. *See* DE 207. On March 11, 2011, the Plaintiffs filed an opening brief regarding the same issue. *See* DE 208. In addition, also on March 11, 2011, both the Plaintiffs and the Defendants filed response briefs. *See* DE 209, DE 211.

On March 21, 2011, the undersigned referred the motion to Magistrate Judge Cosby for a Report and Recommendation, pursuant to 28 U.S.C. § 636(b)(1)(B), Federal Rule of Civil Procedure 72(b), and Northern District of Indiana Local Rule 72.1(c). *See* DE 212. On March 30, 2011, Magistrate Judge Cosby issued his Report and Recommendation. *See* DE 213. In his Report and Recommendation, Magistrate Judge Cosby recommends that Indiana law be found applicable to the resolution of the underlying issues in this case. *See* DE 213. As of this date, no party has filed an objection to the Report and Recommendation. *See* Fed. R. Civ. P. 72(b)(2)

(affording the parties fourteen days to file objections).

The Court's review of a Magistrate Judge's Report and Recommendation is governed by 28 U.S.C. § 636(b)(1), which provides in part:

A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.

28 U.S.C. § 636(b)(1).

Under Fed. R. Civ. P. 72(b), however, the Court must only make a *de novo* determination of those portions of the Magistrate Judge's Report and Recommendation to which specific written objection have been made. *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). Fed. R. Civ. P. 72(b) (setting forth procedures for objecting to a Magistrate Judge's Report and Recommendation and the District Court's standard of review for resolving objections). If no objection or only a partial objection is made, the Court reviews those unobjected portions for clear error. *Id.* In addition, failure to file objections with the district court also "waives the right to appeal all issues addressed in the recommendation, both factual and legal." *Id.* Under the clear error standard, the Court can only overturn a Magistrate Judge's ruling if the Court is left with "the definite and firm conviction that a mistake has been made." *Weeks v. Samsung Heavy Indus. Co., Ltd.*, 126 F.3d 926, 943 (7th Cir. 1997).

Both 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b) permit the parties to file objections to a Report and Recommendation within fourteen days of being served with a copy of the same. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). More than 14 days have passed since the

