

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

CONSOLIDATED GRAIN & BARGE, INC.

CIVIL ACTION

VERSUS

NO: 11-2204
c/w 11-2615

RANDY ANNY

SECTION: "A" (1)

ORDER AND REASONS

Before the Court is an **Objection to Magistrate Ruling and Order (Rec. Doc. 213)** filed by Defendant Randy Anny. Plaintiff Consolidated Grain & Barge, Inc. opposes the motion. The motion, scheduled for submission on September 23, 2013, is before the Court on the briefs without oral argument.

Defendant challenges the magistrate judge's order denying his motion to compel Plaintiff to produce the original blue line drawing of a survey of the property at issue in this dispute and to provide a date at which depositions of Plaintiff's expert witness could resume. (Rec. Docs. 183 & 211). Magistrate Judge Shushan denied Defendant's motion for the reasons presented in Plaintiff's opposition to the motion and based on her review of the drawings submitted to the Court by Plaintiff. Plaintiff had opposed the motion by arguing that the original blue line drawing had already been produced and that Defendant had already deposed Plaintiff's expert witness after having a chance to review the drawing.

In the present motion, Defendant asks the Court to overturn the magistrate judge's order. Defendant argues that the magistrate judge's order is contrary to law that recognizes a party's right to discover relevant information and is in conflict with the jurisprudential recognition that discovery statutes are to be construed broadly. Further, Defendant argues that the magistrate

judge's order unfairly denies access to discovery required to challenge the admissibility of a duplicate under the Federal Rules of Evidence.


Under Federal Rule of Civil Procedure 72(a), when a pretrial matter not dispositive of a party's claim or defense is referred to a magistrate judge to hear and decide, and an objection to that decision is timely filed, a district judge must consider "and modify or set aside any part of the order that is clearly erroneous or is contrary to law." Fed. R. Civ. P. 72(a). Under this standard, a magistrate judge's decision must be affirmed unless "on the entire evidence [the court] is left with a definite and firm conviction that a mistake has been committed." *United States v. U.S. Gypsum Co.*, 333 U.S. 364, 395 (1948).

After a review of the record, the applicable law, the magistrate judge's order, Defendant's objections to that order, the opposition filed by Plaintiff, and the drawings submitted to the Court by Plaintiff; the Court finds the decision by the magistrate judge was not clearly erroneous or contrary to law. The Court finds that the magistrate judge's decision was appropriate under the circumstances.

Accordingly;

IT IS HEREBY ORDERED that the **Objection to Magistrate Ruling and Order (Rec. Doc. 213)** filed by Defendant is **DENIED**.

This 18th day of October, 2013.



JAY C. ZAINES
UNITED STATES DISTRICT JUDGE