

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

JASON JOSEPH KRON

CIVIL ACTION

VERSUS

NO. 11-2263

JAMES LEBLANC ET AL.

SECTION "C" (2)

**ORDER AND REASONS**

Before the court is plaintiff's motion requesting for a 15-day extension to properly file objections to this Court's March 6, 2013 order (Rec. Doc. 76) and opposing defendants' *ex parte* motion for entry of rule 54(b) judgment as to the claims and parties dismissed in that order. Rec. Doc. 84. The motion is **PARTIALLY DENIED** and **PARTIALLY GRANTED**. While it is appropriate for a party to file objections to the magistrate judge's proposed findings and recommendations within 14 days after being served a copy, the same rule does not apply to an order from a district judge. 28 U.S.C. § 636(b)(1)©. The reason a party may file objections to the magistrate judge's proposed findings and recommendations is that the district judge will then review those objections *de novo*, or as if it were considering the question for the first time. A district judge's opinion would not be reviewed in the same manner. Here, petitioner has sought the appropriate means to review a district judge's order by filing a notice of appeal with the court on March 13, 2013. Rec. Doc. 78.

In defendants' motion for entry of a Rule 54(b) judgment as to the claims and parties dismissed in the March 6, 2013 Order and Reasons (Rec. Doc. 76), defendants explained that

“[w]ithout a Rule 54(b) judgment, plaintiff’s appeal will probably be dismissed for lack of jurisdiction because it is an interlocutory decision disposing of only some of the claims in this suit.” Because it appeared to be in the interest of the plaintiff, who is incarcerated and appearing pro se, the defendants believed the motion would be unopposed.

This motion brings to the Court’s attention that plaintiff opposes defendants’ motion for entry of a Rule 54(b) judgment. Rec. Doc. 84. The Court will vacate the judgment because it was not consented to by all parties and was considered as an unopposed motion. Should defendants wish to re-submit the motion as opposed, it shall be set for hearing and the court shall ask for opposition from plaintiff. Should plaintiff wish to move for the judgment because of defendants’ explanation of the implications for appeal, the Court shall consider a motion for a Rule 54(b) judgment from the plaintiff as unopposed because defendants have previously alerted the Court of their consent to move for an entry of final judgment in Rec. Doc. 79.

Accordingly,

IT IS ORDERED that plaintiff’s request for a 15-day extension of time to file his objections to this Court’s March 6, 2013 order is DENIED since objections are not appropriate. Rec. Doc. 84

IT IS FURTHER ORDERED that the Court’s March 19, 2013 order granting Rec. Doc. 79 Motion for Entry of Judgment under Rule 54(b) is WITHDRAWN. Rec. Doc. 81.

IT IS FURTHER ORDERED that defendants’ ex parte/consent motion for entry of judgment under Rule 54(b) is re-considered and the motion is DENIED. Rec. Doc. 79.

IT IS FURTHER ORDERED that the judgment under Rule 54(b) is VACATED. Rec.

Doc. 83.

New Orleans, Louisiana this 25th day of March, 2013.

  
HELEN G. BERRIGAN  
UNITED STATES DISTRICT COURT