

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JONATHAN KING MEYER,

Plaintiff,

CASE NO. 1:14-CV-536

v.

HON. ROBERT J. JONKER

JOSEPH NATOLE, *et al.*,

Defendants.

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Kent’s Report and Recommendation dated January 25, 2016 (docket # 228) and Plaintiff Meyer’s Objections (docket # 230). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 451 (3d ed. 2014). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981).

The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the

Report and Recommendation itself; and Plaintiff's objections. After its review, the Court finds that Magistrate Judge Kent's Report and Recommendation is factually sound and legally correct.

The Magistrate Judge recommends granting Defendant Flentje's Motion to Set Aside Default (docket # 166) and denying Plaintiff's first and second Motions for Default Judgment against Defendant Flentje (docket ## 42, 169). The Magistrate Judge carefully and thoroughly considered the evidentiary record, the parties' arguments, and the governing law. Plaintiff disagrees with the Magistrate Judge's conclusion, but nothing in his Objections changes the fundamental analysis. The Court finds it appropriate to set aside the default against Defendant Flentje and to deny Plaintiff's motions for default judgment, for precisely the reasons the Report and Recommendation details.

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (docket # 228) is approved and adopted as the opinion of the Court.

IT IS FURTHER ORDERED that Defendant Flentje's Motion to Set Aside Default (docket # 166) is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff's first and second Motions for Default Judgment (docket ## 42, 169) are **DENIED**.

Dated: March 23, 2016

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE