UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KOLEAN ENGLAND,

Plaintiff,

v.

JAMES M. O'BRIANT,

Defendant.
_____/

Case No. 1:17-cv-185

HON. JANET T. NEFF

OPINION AND ORDER

After obtaining a Default Judgment against Defendant, Plaintiff filed a "Motion to Take Possession of Defendant's Safe Deposit Box" (ECF No. 94), a motion that was referred to the Magistrate Judge. The Magistrate Judge issued a Report and Recommendation (R&R), recommending that this Court grant in part and deny in part Plaintiff's motion. Within the time period for filing objections to the Report and Recommendation, Plaintiff filed a "Motion for Order to Appear by Telephone" (ECF No. 100), essentially asking the Court to reconsider the mechanism for delivery the Magistrate Judge recommended in the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of the portion of the Report and Recommendation to which objection has been made. The Court denies Plaintiff's motion and issues this Opinion and Order, approving and adopting the Report and Recommendation.

The Magistrate Judge recommends that Bank of America be ordered to deliver the safe deposit box in question to the Magistrate Judge within twenty-eight (28) days after this Court

adopts the recommendation. Once the safe deposit box is in the possession of the Court, the Magistrate Judge will schedule a hearing at which the Magistrate Judge will review the contents of the safe deposit box and provide to Plaintiff any items therein to which she is entitled. Bank of America, which was also expressly permitted to submit any objections to the Magistrate Judge's recommendation, did not file any objection. Having reviewed the record, the Court determines that Plaintiff's request to reconsider the recommended delivery mechanism is not warranted, and the Court will therefore deny her motion. The Magistrate Judge's recommended course of action is an appropriate exercise of discretion to protect any attorney-client privileged materials or client property in the safe deposit box. Therefore:

IT IS HEREBY ORDERED that Plaintiff's "Motion for Order to Appear by Telephone" (ECF No. 100) is DENIED, and the Report and Recommendation of the Magistrate Judge (ECF No. 96) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's "Motion to Take Possession of Defendant's Safe Deposit Box" (ECF No. 94) is GRANTED IN PART and DENIED IN PART; specifically, the motion is granted to the extent that Bank of America is directed to deliver the safe deposit box in question to United States Magistrate Judge Ellen Carmody within twenty-eight (28) days of entry of this Opinion and Order.

IT IS FURTHER ORDERED that this Opinion and Order shall be served upon Bank of America.

Dated: July 8, 2019

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge