

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 12-3062(DSD/SER)

Alaa E. Elkharwily, M.D.,

Plaintiff,

v.

ORDER

Mayo Holding Company, a corporation,
d/b/a Mayo Health System, d/b/a
Mayo Clinic Health System, d/b/a
Albert Lea Medical Center - Mayo
Health System, Mayo Clinic Health
System - Albert Lea, a corporation,
Mayo Foundation, Mark Ciota, M.D.,
John Grzybowski, M.D., Dieter
Heinz, M.D., Robert E. Nesse, M.D.,
Steve Underdahl, and Stephen Waldhoff,

Defendants.

This matter is before the court upon the objection and appeal by plaintiff Alaa Elkharwily of Magistrate Judge Steven E. Rau's October 18, 2017, Findings of Fact and Conclusions of Law and Recommendation and Order (R&R and Order).

The extensive background of this matter is set forth in the court's previous orders and will not be repeated here. The matter currently before the court is limited to plaintiff's objection to and appeal of the R&R and Order. With respect to the R&R, Magistrate Judge Rau recommended that the court (1) purge the contempt order dated April 13, 2017, (2) order plaintiff to pay defendants' reasonable attorney's fees for the enforcement of the order dated May 3, 2017, (3) order defendants to submit a request for attorney's fees and costs within fourteen days of the adoption

of the R&R, and (4) advise plaintiff that if he violates the protective order in the future, the court will issue a bench warrant for his arrest to coerce compliance.

The court reviews the report and recommendation de novo. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); D. Minn. L.R. 72.2(b). After a thorough review of the file and record, the court finds that the report and recommendation is well-reasoned and correct. Plaintiff's objections are therefore overruled.

In the Order, Magistrate Judge Rau denied plaintiff's request for the appointment of counsel and ordered that certain documents be placed under seal. The standard of review applicable to an appeal of a magistrate judge's order on nondispositive matters is "extremely deferential." Reko v. Creative Promotions, Inc., 70 F. Supp. 2d 1005, 1007 (D. Minn. 1999). The court will reverse such an order only if it is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); D. Minn. LR 72.2(a)(3). Plaintiff objects only to the denial of his request for counsel. The court finds no error in that decision.

Accordingly, based on the above, **IT IS HEREBY ORDERED** that:

1. The objection and appeal [ECF No. 435] is denied;
2. The Findings of Fact and Conclusions of Law and Recommendation and Order [ECF No. 432] is adopted and upheld in its entirety;

3. The contempt order dated April 13, 2017 [ECF No. 324] is purged;

4. Plaintiff is ordered to pay defendants' reasonable attorney's fees for the enforcement of the order dated May 3, 2017 [ECF No. 344];

5. Defendants shall submit a request for attorney's fees and costs within fourteen days of this order;

6. Plaintiff is advised that if he violates the protective order [ECF No. 47] in the future, the court will issue a bench warrant for his arrest to coerce compliance; and

7. Plaintiff's objection to the denial of his request for the appointment of counsel is overruled.

Dated: November 20, 2017

s/David S. Doty
David S. Doty, Judge
United States District Court