

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CASE NO. 3:09-cv-224-RJC**

CARL STURDIVANT ,)
)
 Plaintiff,)
)
 v .)
)
 KONE INC.,)
)
 Defendant.)
)

ORDER

THIS MATTER is before the Court on plaintiff’s Appeal of the Magistrate Judge’s Order Compelling Discovery (Doc. Nos. 29, 32, & 34).

In the case of non-dispositive pretrial matters under Rule 72(a), “[t]he district judge in the case must consider timely objections and modify or set aside any part of the Magistrate Judge’s order found to be clearly erroneous or contrary to law.” Fed. R. Civ. P. 72(a). Similarly, pursuant to The Federal Magistrate Act, a judge of the court may reconsider pretrial matters “where it has been shown that the Magistrate Judge’s order is clearly erroneous or contrary to law.” 28 U.S.C. § 636(b)(1) (2006). Under this standard, “a finding is ‘clearly erroneous’ when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.” United States v. U.S. Nat’l Gypsum Co., 333 U.S. 364 (1948); Walton v. Johnson, 440 F.3d 160, 173-74 (4th Cir. 2006).

The Court has carefully reviewed the record, the submissions of the parties, and the Magistrate Judge’s order. The Court finds that the Magistrate Judge’s decision is not clearly erroneous, and the Court will affirm the order and dismiss Respondent’s appeal.

IT IS, THEREFORE, ORDERED that:

1. The Magistrate Judge's Order (Doc. No. 28) is **AFFIRMED**;
2. Plaintiff's Appeal (Doc. No. 29) is **DISMISSED**; and
3. Defendant's request for costs is **DENIED**.

SO ORDERED.

Signed: January 28, 2010



Robert J. Conrad, Jr.
Chief United States District Judge

