

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

TALAT ABDUL AKBAR,

Plaintiff,

:

Case No. 3:06-cv-314

-vs-

District Judge Walter Herbert Rice
Magistrate Judge Michael R. Merz

:

AMERICAN GENERAL FINANCE
CORP.,

Defendant,

- vs -

RONALD AKBAR,

Respondent on the Motion
to Confirm Arbitration Award.

REPORT AND RECOMMENDATIONS

This case was filed in the Montgomery County Common Pleas Court and removed to this Court by Defendant American General Finance Corp. because Plaintiff's claim for relief arose under federal law and this Court accordingly has jurisdiction under 28 U.S.C. § 1331 (Notice of Removal, Doc. No. 1). After removal, Defendant successfully showed that the parties had agreed to arbitrate any claims arising out of the contract between the parties. The Court thereupon stayed these proceedings pending completion of arbitration (Doc. No. 20). Ronald Akbar was joined as a party to the arbitration proceedings.

Once the arbitration was complete, Defendant moved to confirm the award and join Ronald Akbar as a party (Doc. No. 43). The Court granted the motion to join Ronald Akbar and ordered that he be served with the Motion to Confirm (Doc. No. 47). The docket shows that he was served

on June 3, 2009, and is in default for want of response to the Motion.

Plaintiff Talat Akbar responded to the Motion by objecting that “evidence was erroneously [sic] excluded from the hearing” and “he has a pending motion to be released from this award.” (Doc. No. 46.) His response was unsupported by evidence or a memorandum of law. As Defendant points out in its Reply any objection to the exclusion of evidence is untimely under the Federal Arbitration Act and Plaintiff has failed to identify any excluded evidence.

Accordingly, as provided in 9 U.S.C. § 9, the Court should enter judgment confirming the arbitration award as to both Talat and Ronald Akbar.

July 2, 2009.

s/ **Michael R. Merz**
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir., 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).