

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

AMERICAN POWER, LLC,	:	
Plaintiff,		
v.	:	Case No. 3:17-cv-347
DOUGLAS O. HARRIS, <i>et al.</i> ,		JUDGE WALTER H. RICE
Defendants.	:	

DECISION AND ENTRY ADOPTING IN PART AND REJECTING IN PART UNITED STATES MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #43); SUSTAINING IN PART AND OVERRULING IN PART DEFENDANTS' OBJECTIONS THERETO (DOCS. ##46, 48); SUSTAINING IN PART AND OVERRULING IN PART MARMON AND FONTAINE DEFENDANTS' MOTION TO DISMISS (DOC. #16) AND DEKTRIX DEFENDANTS' MOTION TO DISMISS (DOC. #20); SUSTAINING *NUNC PRO TUNC* PLAINTIFF'S UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO DEKTRIX DEFENDANTS' OBJECTIONS TO REPORT AND RECOMMENDATIONS (DOC. #52); FULL OPINION TO FOLLOW; THIS OPINION IS NOT A FINAL APPEALABLE ORDER

On August 2, 2018, United States Magistrate Judge Sharon L. Ovington issued a 57-page Report and Recommendations, Doc. #43. She recommended that the Court overrule the Fontaine Defendants' Motion to Dismiss, Doc. #16, and sustain in part and overrule in part the Dektrix Defendants' Motion to Dismiss, Doc. #20. Both sets of Defendants filed Objections to the Report and

Recommendations, Docs. ##46, 48, to which Plaintiff filed Responses, Docs. ##49, 54.¹

Having considered the parties' arguments, the Court:

- ADOPTS IN PART and REJECTS IN PART the United States Magistrate Judge's Report and Recommendations, Doc. #43;
- SUSTAINS IN PART and OVERRULES IN PART Defendants' Objections Thereto, Docs. ##46, 48; and
- SUSTAINS IN PART and OVERRULES IN PART the Motions to Dismiss filed by the Fontaine Defendants, Doc. #16, and the Dektrix Defendants, Doc. #20.

A full opinion will follow within 30-45 days from date. This opinion is not a final appealable order.

Date: September 27, 2018



WALTER H. RICE
UNITED STATES DISTRICT JUDGE

¹ On September 11, 2018, Plaintiff filed an unopposed motion, Doc. #52, for an extension of time, through September 20, 2018, to file a response to the Dektrix Defendants' Objections. Plaintiff subsequently filed its response on September 20, 2018, Doc. #54. The Court SUSTAINS Plaintiff's motion for an extension of time, Doc. #52, *nunc pro tunc*.