

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

CONSUMER CELLULAR, INCORPORATED,
an Oregon corporation,

3:15-CV-01908-PK

Plaintiff,

ORDER

v.

CONSUMERAFFAIRS.COM, INC.,
a Nevada corporation;
CONSUMERS UNIFIED, LLC, a
Nevada limited liability
company; and DAVID ZACHARY CARMAN,

Defendants.

BROWN, Judge.

On September 26, 2016, Magistrate Judge Paul Papak issued an Opinion and Order (#65) granting Defendants' Motion (#52) to Stay Proceedings Pending Appeal as to trial of Plaintiff's RICO claim and denying Defendants' Motion (#52) to Stay Proceedings Pending Appeal as to pretrial proceedings in connection with Plaintiff's

1 - ORDER

RICO claim. On October 13, 2016, Defendants filed Objections to the portion of the Opinion and Order in which the Magistrate Judge denied Defendants' Motion to Stay as to pretrial proceedings. On November 14, 2016, Defendants filed a Reply to their Objections. The matter is now before this Court pursuant to Federal Rule of Civil Procedure 72(a).

In accordance with Rule 72(a), "[w]hen a pretrial matter not dispositive of a party's claim or defense is referred to a magistrate judge to hear and decide, the magistrate judge must promptly conduct the required proceedings and, when appropriate, issue a written order stating the decision." The standard of review for an order with objections is "clearly erroneous" or "contrary to law." See also 28 U.S.C. § 636(b)(1)(A) (applying the "clearly erroneous or contrary to law" standard of review for nondispositive motions). If a ruling on a motion is not determinative of "a party's claim or defense," it is not dispositive and, therefore, is not subject to the *de novo* review that is required for proposed findings and recommendations that address dispositive motions. See Title 28 U.S.C. § 636(b)(1)(B).

This Court has carefully considered Defendants' Objections and concludes they do not provide a basis to modify the Magistrate Judge's Opinion and Order. This Court also has reviewed the pertinent portions of the record *de novo* and does not find any error.

CONCLUSION

The Court **AFFIRMS** Magistrate Judge Papak's Opinion and Order (#65) granting Defendants' Motion (#52) to Stay Proceedings Pending Appeal as to trial of Plaintiff's RICO claim and denying Defendants' Motion (#52) to Stay Proceedings Pending Appeal as to pretrial proceedings in connection with Plaintiff's RICO claim.

IT IS SO ORDERED.

DATED this 13th day of December, 2016.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge