

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

MICHAEL J. CONWAY

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

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CASE NO. 4:08CV201


**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On November 30, 2009, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that the United States Motion to Reconsider (Dkt. 45) be GRANTED in part and DENIED in part, such that the Court’s June 5, 2009 Order Enjoining the Secretary from Proceeding in Collection Case Filed in the District of Nevada (Dkt. 41) and the Court’s June 5, 2009 memorandum adopting (Dkt. 40) be VACATED, that Plaintiff Michael Conway’s Motion to Enjoin Proceedings in the District Court of Nevada (Dkt. 17) be DENIED, that the United States be permitted to proceed in the case of *United States v. Nakano and Conway*, Case No. 2:08cv01340 in the District Court of Nevada, that Defendant United States’ Motion to Stay this proceeding pending the outcome of the Nevada proceeding (Dkt. 15) be DENIED, and that this matter proceed to trial or other disposition.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the court. Therefore, the United States Motion to Reconsider (Dkt. 45) is GRANTED in part and DENIED in part, such that the Court's June 5, 2009 Order Enjoining the Secretary from Proceeding in Collection Case Filed in the District of Nevada (Dkt. 41) and the Court's June 5, 2009 memorandum adopting (Dkt. 40) are hereby VACATED. Further, Plaintiff Michael Conway's Motion to Enjoin proceedings in the District Court of Nevada (Dkt. 17) is DENIED, and the United States is permitted to proceed in the case of *United States v. Nakano and Conway*, Case No. 2:08cv01340 in the District Court of Nevada. Finally, Defendant United States' Motion to Stay this proceeding pending the outcome of the Nevada proceeding (Dkt. 15) is DENIED, and this matter shall proceed to trial or other disposition.

IT IS SO ORDERED.

SIGNED this 21st day of December, 2009.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE