

Timely and Specific: Making Objections to Federal Magistrate Reports

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Although it might be obvious to attorneys who routinely practice in the federal courts, for those who do not, it is important that specific and timely objections to a federal magistrate’s report and recommendation are filed to preserve review of those arguments by both the district and appellate court. Federal Rule of Civil Procedure 72 and 28 U.S.C. § 636(b)(1) provide that such written objections are to be filed and served within *14 days* after service of a copy of the recommended disposition. The district court then conducts a *de*

novo review of any portion of the report and recommendation that has been properly objected to. *See id.* What constitutes a “proper objection”? As one district court in Michigan recently observed, “it is not the job of the Court to make arguments on [a party’s] behalf” – parties cannot simply make an “argument in the most skeletal way, leaving the court to ... put flesh on its bones.” *Sands v. Brennan*, 2018 WL 4356650, at *2 (E.D. Mich. Sept. 13, 2018) (quoting *McPherson v. Kelsey*, 125 F.3d 989, 995–96 (6th Cir. 1997)). Objections “must specifically identify” – indeed, “pinpoint” – those “specific findings that the party disagrees with.” *Leatherwood v. Anna’s Linens Co.*, 384 F. App’x 853, 856–57 (11th Cir. 2010). If an objection is not specific enough, [the district court may apply a clear error instead of *de novo* standard of review](#) or, as noted in *Sands*, the objection may be waived altogether. Moreover, the failure to properly file objections to a magistrate judge’s report and recommendation has a significant impact on appellate rights as well. In the absence of plain error or manifest justice, a party who fails to object in accordance with the provisions of 28 U.S.C. § 636(b)(1) waives her right to challenge on appeal the district court’s order on unobjected-to factual and legal conclusions. 11th Cir. R. 3-1. This rule does come with a notable caveat: in order to waive such a challenge, the party must have been “informed of the time period for objecting and the consequences on appeal for failing to object.” *Id.* But because such a warning often comes standard in a magistrate judge’s report and recommendation, an attorney should always file timely, specific, and legally supported objections in order to preserve her arguments. **Preservation Issue:** Be sure to timely file specific objections to a federal magistrate judge’s report, pinpointing the specific findings with which you disagree.

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