

Timely and Specific: Making Objections to Federal Magistrate Reports

October 03, 2018



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*

novovo 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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