

Selected Cases – Federal Cases
Federal Cases Involving Masters in Various Roles
October 2012

Some of the cases that appear in this Appendix were obtained from the Special Master Case Reporter published by David Cohen www.SpecialMaster.biz

(* = *appointment of masters was at issue*)

Auditor

In re Peterson, 253 U.S. 300 (1920) (holding that the lower court’s appointment of an auditor to investigate facts, hear witnesses, examine accounts of the parties, sort out allegations, and make and file a report to clarify the issues was proper).*

Arthur Murray, Inc. v. Oliver, 364 F.2d 28 (8th Cir. 1966) (appointing an accountant to compute damages; finding that referral to a master to audit plaintiff’s books and records was proper, and finding that referral to a master to explore collateral issues outside of the trial record was improper).*

Roger Miller Music, Inc. v. Sony/ATV Pub., LLC, No. 10-5363, 2012 WL 555485 (6th Cir. Feb. 22, 2012) (mentioning district court’s appointment of special master to conduct an accounting of copyright infringement damages, which Sony later appealed and won).

Petties v. District of Columbia, 779 F. Supp. 2d 95 (D.D.C. 2011) (holding that failure by private provider of special education services to file timely request for hearing regarding its invoice dispute with school district precluded review of invoices by special master).

F.T.C. v. Johnson, No. 2:10-CV-02203-RLH-GWF, 2011 WL 6140157 (D. Nev. Dec. 7, 2011) (denying the petitioner’s motion for an appointment of an auditor to monitor the findings of the court-appointed Receiver because “the Court itself ‘audits’ the conduct of the Receiver” and because petitioner did not have permission to file the motions under seal).*

In re Donald L. Lounsbury, No. BK11-41632-TLS, 2011 WL 5024302 (D. Neb. Oct. 21, 2011) (appointing referee in real estate dispute/bankruptcy case to conduct a final accounting between the parties).

In re Diet Drugs (Phentermine/Fenfluramine/Dexfenfluramine) Prods. Liab. Litig., No. 1203, 2011 WL 2932928 (E.D. Pa. July 20, 2011) (holding that under the Audit Rules, it was within the special master's discretion to appoint a Technical Advisor to review claims after the trust and claimant had the opportunity to develop the Show Cause Record).

McDowell v. Price, No. 4:08cv003979 SWW, 2010 U.S. Dist. LEXIS 116266 (E.D. Ark. Oct. 13, 2010) (appointing a special master to make accounting of the plaintiff’s interest in the plans).

Claims Administrator

Stern v. Marshall, 131 S.Ct. 2594 (2011) (holding that a bankruptcy referee may exercise jurisdiction over a trustee's voidable preference claim against a creditor only where there was no question that the referee was required to decide whether there has been a voidable preference in determining whether and to what extent to allow the creditor's claim).

Argueta v. Sec'y of HHS, 102 Fed. Cl. 272 (Fed. Cl. 2011) (affirming special master's determination of entitlement was proper).

In re Diet Drugs (Phentermine/Fenfluramine/Dexfenfluramine) Prods. Liab. Litig., Civil Action No. 99-20593, 2012 WL 3613973 (E.D. Pa. Aug. 22, 2012) (discussing the special master's appointment of a technical advisor to review claims).

Paone v. Microsoft Corp., No. 07-CV-2973, 2012 U.S. Dist. LEXIS 105990 (E.D.N.Y. July 30, 2012) (appointing special master for the limited purpose of conducting a *Markman* hearing and issuing recommendations regarding claim construction).

Sandvik Intellectual Prop. AB v. Kennametal, Inc., No. 2:10-CV-00654, 2012 WL 3028028 (W.D. Pa. July 24, 2012) (adopting the special master's claim construction recommendation).

24 Hour Fitness USA, Inc. v. Omlin, No. 2:11-MC-1126 TS, 2012 WL 2327735 (D. Utah June 19, 2012) (staying 24 Hour Fitness' petition to compel arbitration until special master made rulings in related proceeding).

Method Elecs., Inc. v. DPH-DAS LLC, No. 09-CV-13078, 2012 U.S. Dist. LEXIS 60365 (E.D. Mich. Apr. 30, 2012) (adopting and modifying the special master's claim construction report and recommendation).

Bergstrom, Inc. v. Glacier Bay, Inc., No. 08 C 50078, 2012 U.S. Dist. LEXIS 31692 (N.D. Ill. Mar. 9, 2012) (adopting special master's report and recommendation as modified in construction claims dispute).

S.E.C. v. Rockwell Energy of Tex., LLC, No. H-09-4080, 2012 WL 360191 (S.D. Tex. Feb. 1, 2012) (appointing special master in charge of liquidating the assets).

United States v. Mastellone, No. 10 Civ. 7374 (DLC), 2011 WL 4031199 (S.D.N.Y. Sept. 12, 2011) (appointing a special master to determine the award amount to be paid to each claimant).

Douglas v. Discover Prop. & Cas. Ins. Co., No. 3:08cv1607, 2011 WL 3584759 (W.D. Pa. Aug. 12, 2011) (seeking appointment of a special master to adjudicate the claims of the members of a potential class action).

Davis v. Unum Grp., No. 03-940, 2011 WL 2438632 (E.D. Pa. June 17, 2011) (denying plaintiff's request for the court to appoint a special master to supervise defendants' creation of a new procedure for the review of disability claim denials, terminations, and buy-outs).

Grant St. Grp., Inc. v. Realauction.com, LLC, No. 9-1407, 2011 WL 474327 (W.D. Pa. Feb. 4, 2011) (appointing a special master to oversee the claims construction process due to highly technical nature of the patents).

Noah Sysys., Inc. v. Intuit, Inc., No 06-cv-00933, 2010 WL 5638627 (W.D. Pa. Dec. 17, 2010) (adopting the report and recommendation of the special master which recommended constructions for various disputed claim terms).

In re Holocaust Victim Assets Litig., 105 F. Supp. 2d 139 (E.D.N.Y. 2000) (appointing special master to oversee allocation and distribution of proceeds in case alleging that Swiss banks profited from the Holocaust).

Class Action Master

Sullivan v. DB Invs., Inc., 667 F.3d 273 (3rd Cir. 2011) (District Court referred the case to a special master to consider and recommend a plan for dissemination of the Notice of Settlement, a distribution plan for members of the Indirect and Direct Purchaser settlement classes, division of the fund, amount of incentive awards for named plaintiffs, and fee requests.).

In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions, 278 F.3d 175 (3d Cir. 2002) (appointing fee examiner to review class counsel's application for fees following settlement of class action).*

Mayberry v. United States, 151 F.3d 855 (8th Cir. 1998) (appointing special master to assist in settlement of damages).

E.E.O.C. v. U.S. Steel Corp., Civil Action No. 10-1284, 2012 WL 2402907 (W.D. Pa. June 26, 2012) (discussing the involvement of a special master in a potential class action alleging violations of the Americans with Disabilities Act).

United States v. City of New York, 276 F.R.D. 22 (E.D.N.Y. 2011) (holding that a special master is one of the tools available to the court to make class actions more manageable).*

In re Asbestos Prods. Liab. Litig., MDL No. 875, 2011 WL 6355308 (J.P.M.L. Dec. 13, 2011) (8,862 maritime cases were consolidated before a Magistrate Judge with assistance of a special master).

United States v. City of New York, No. 07-CV-2067, 2011 WL 2259640 (E.D.N.Y. June 6, 2011) (holding that exceptional conditions exist that require the appointment of a special master to conduct the individual claims process under Fed. R. Civ. P. 53(a)(1)(B) and appointing special master to take evidence, make findings of fact, and determine issues of law unique to individual claimants).

Montez v. Hickenlooper, No. 08-1399, 2011 U.S. Dist. LEXIS 89016 (D. Colo. May 10, 2011) (holding that the special master did not err in finding that claimant did not suffer from a covered disability as defined by the settlement agreement).

Princeline.com, Inc. v. Silberman, 405 F. App'x 532 (2d Cir. 2010) (appointing a special master to work with the parties to review and amend, as appropriate, the plan for class notice and distribution of the net settlement fund).

Braud v. Transp. Servs. Co. of Ill., Nos. 05-1898, 05-1977, 05-5557, 06-0891, 2010 WL 3283398 (E.D. La. Aug. 17, 2010) (approving the settlement after master testified as to the fairness of the settlement).

Beth V. v. Carroll, 155 F.R.D. 529 (E.D. Pa. 1994) (appointing special master to review consent decrees and class certification).

McLendon v. Cont. Grp., Inc., 749 F. Supp. 582 (D.N.J. 1989) (appointing special master to aid in post-liability settlement of damages for 5,000 claimants in ERISA case), *aff'd on other grounds*, 908 F.2d 1171 (3d Cir. 1990).

In re "Agent Orange" Prod. Liab. Litig., 611 F. Supp. 1396 (E.D.N.Y. 1985) (appointing three special masters to negotiate and implement settlement claims of service members and their relatives against the manufacturers), *aff'd in part, rev'd in part*, 818 F.2d 179 (2d Cir. 1987).

Jenkins v. Raymark Indus., Inc., 109 F.R.D. 269 (E.D. Tex. 1985) (appointing special master to profile claims of 1,000 member class for jury and compare claims of representatives with claims of class members), *aff'd on other grounds*, 782 F.2d 468 (5th Cir. 1986).

In re "Agent Orange" Prod. Liab. Litig., 94 F.R.D. 173 (E.D.N.Y. 1982) (holding that appointment of a special master to resolve disputes and rule on discovery matters was warranted under the circumstances).

Kyriazi v. W. Elec. Co., 465 F. Supp. 1141 (D.N.J. 1979) (appointing three-person panel to evaluate damage claims in class action sex discrimination suit with more than 10,000 potential claims), *aff'd on other grounds*, 647 F.2d 388 (3d Cir. 1981).

Coordinating Master

In re United States, No. 569, 1998 WL 968487 (Fed. Cir. Dec. 23, 1998) (holding that appointing special master for 120 cases was proper).*

Zinn v. United States, No. 1:11 CV 278, 2012 WL 3538047 (N.D. Ohio July 26, 2012) (discussing the appointment and duties of special master in a taxpayer dispute with United States).

Cramer v. United States, No. 1:11 CV 276, 2012 WL 3538022 (N.D. Ohio July 25, 2012) (discussing the appointment and duties of special master in a taxpayer dispute with United States).

Burk v. United States, No. 5:10-CV-470-H, 2012 WL 1185011 (E.D.N.C. Apr. 9, 2012) (appointing Magistrate Judge David W. Daniel as settlement master and directing him to meet with the parties and supervise negotiations in a medical malpractice action).

Lee v. Marvel Enters., 765 F. Supp. 2d 440 (S.D.N.Y. 2011) (appointing a special master to oversee the annual meeting of SLMF shareholders to elect a board, and to reinstate the corporation).

Res. Real Estate Opportunity OP, LP v. Cannery at Webster Station, LTD, No. 3:11-CV-220, 2011 WL 6884243 (S.D. Ohio Dec. 28, 2011) (appointing a special master to appraise, advertise, and sell the property in a foreclosure action against the developer of high end loft apartments retro-fitted into a historic Cannery building).

NLRB v. Jackson Hosp. Corp., No. 07-549, 2011 WL 210679 (D.D.C. Jan. 14, 2011) (appointing a special master to resolve petitioner's motion to amend and to review cross motions for summary adjudication).

In re Baycol Prods. Liab. Litig., No. 1431, 2002 WL 31422989 (J.P.M.L. Oct. 22, 2002) (appointing panel to consolidate pretrial proceedings in civil litigation cases).

Discovery Master

Daubert v. Merrell Dow Pharms., Inc., 509 U.S. 579 (1993) (discussing the court appointment of an expert under the Fed. R. Evid. 706).

Good Stewardship Christian Ctr., Inc. v. Empire Bank, 341 F.3d 794 (8th Cir. 2003) (finding the district court did not abuse its discretion in appointing a special master and in taxing all costs to appellants).

Aird v. Ford Motor Co., 86 F.3d 216 (D.C. Cir. 1996) (appointing special master in oversight of discovery and other procedural matters; on appeal, court held that the district court enjoys broad discretion to allocate the special master's fees as it thinks best under the circumstances of the case and can, in appropriate cases, tax the master's fees as costs against the losing party).

United States v. Montrose Chem. Corp. of Cal., 50 F.3d 741 (9th Cir. 1995) (appointing special master to supervise all non-dispositive pre-trial proceedings and to conduct and supervise settlement negotiations; district court is entitled to rely upon recommendations of special master in deciding whether to approve consent decree, but reliance cannot be so complete that it takes the place of court's obligation to independently scrutinize terms of settlement).

Stauble v. Warrob, Inc., 977 F.2d 690 (1st Cir. 1992) (holding that the appointment of master to make recommendation on fundamental issues of liability over the objection of one party was improper).*

In re Armco Inc., 770 F.2d 103 (8th Cir. 1985) (holding that it was error to refer trial on merits to master, but proper to refer all pretrial matters, as well as power to hear and make recommendations on dispositive motions).*

Eggleston v. Chi. Journeymen Plumbers' Local Union No. 130, U.A., 657 F.2d 890 (7th Cir. 1981) (recommending that trial court appoint a special master to oversee discovery where counsel engaged in obstructionist tactics).

In re Murphy, 560 F.2d 326 (8th Cir. 1977) (appointing three-person special master panel to review documents submitted by the parties and to make preliminary rulings on the government's discovery motions in a patent suit).

First Iowa Hydro Elec. Coop. v. Iowa-Ill. Gas & Elec. Co., 245 F.2d 613 (8th Cir. 1957) (finding that failure to make timely objection to the appointment of a special master either at the time of the order or promptly thereafter constitutes a waiver of error and objections made only to the special master are unavailing).*

Schwimmer v. United States, 232 F.2d 855 (8th Cir. 1956) (granting master power of full and final judgment with regard to the question of what documents were subject to attorney-client privilege).

Dish Network LLC v. Fun Dish, Inc., No. 1:08CV1540, 2012 WL 4322605 (N.D. Ohio Sept. 20, 2012) (appointing special master to oversee discovery disputes).

LMD Integrated Logistic Servs., Inc. v. Mercer Distrib. Servs., LLC, No. C10-1381 BHS, 2012 WL 3762508 (W.D. Wash. Aug. 29, 2012) (denying motion objecting to the special master's report, and accepting the special master's authority to review documents relating to the transaction between the parties).

TransWeb, LLC v. 3M Innovative Prods. Co., Civil Case No. 10-4413, 2012 U.S. Dist. LEXIS 97515 (D. N.J. July 13, 2012) (reviewing defendant's objection to the special master's recommendations on the application of the attorney-client privilege and the work product doctrine).

Dillon v. Antero Res., No. 2:11-CV-01038, 2012 WL 2899710 (W.D. Pa. July 10, 2012) (advising the parties that the court would appoint a special master to resolve discovery issues should there be an unreasonable volume or frequency of discovery requests).

In re Methyl Tertiary Butyl Ether ("MTBE") Prods. Liab. Litig., No. 1:00-1898, 2012 U.S. Dist. LEXIS 79349 (S.D.N.Y. June 5, 2012) (granting defendant's motion to compel production of documents).

United States v. Duke Energy Corp., No. 1:00CV1262, 2012 WL 1565228 (M.D.N.C. Apr. 30, 2012) (discussing the special master's review of documents for privilege and work product).

In re Jefferson Cnty., Ala., 465 B.R. 243 (Bankr. N.D. Ala. 2012) (appointing two special masters to investigate the sewer system and its operations).

Nystedt v. Munroe, No. 10-10754-RWZ, 2012 WL 244939 (D. Mass. Jan. 26, 2012) (appointing attorney to serve as special discovery master).

Chevron Corp. v. Donzinger, 783 F. Supp. 2d 713 (S.D.N.Y. 2011) (holding that allegations that the special master who presided over a deposition was biased were unfounded).

In re Chevron Corp., 749 F. Supp. 2d 170 (S.D.N.Y. 2011) (appointing a special master to preside at the deposition and to resolve, subject to review, any privilege and work product claims made in response to specific questions).

In re Refco Sec. Regulation, 759 F. Supp. 2d 342 (S.D.N.Y. 2011) (appointing special master in a multi-district litigation (MDL) concerning bankrupt securities broker and holding that a district court reviews discovery orders of a special master appointed in MDL for abuse of discretion).

B & B Hardware, Inc. Fastenal Co., No. 4:10-CV-00317-SWW, 2011 WL 6829625 (E.D. Ark. Dec. 16, 2011) (appointing special master to oversee discovery during depositions).

U-Haul Co. of Nev. v. Gregory J. Kamer, Ltd., No. 2:06-cv-618-RCJ-PAL, 2011 U.S. Dist. LEXIS 121820 (D. Nev. Oct. 20, 2011) (mentioning that it is permissible to disclose confidential information to court officials involved in the case, including a special master).

Augustin v. Jablonsky, Nos. CV 99-3126(DRH)(ARL), CV 99-2844(DRH)(ARL), CV 99-4238 (DRH)(ARL), 2011 WL 4953982 (E.D.N.Y. Oct. 19, 2011) (denying plaintiff's motion for the appointment of a special master to oversee discovery in the damages phase of the class action proceedings).

Knitting Fever, Inc. v. Coats Holdings, Ltd., No. CV 05-1065(DRH)(WPW), 2011 WL 3678823 (E.D.N.Y. Aug. 22, 2011) (denying motion to modify the protective order and appoint a special master to oversee access to discovery previously produced in the action).

Race Tires Am., Inc. v. Hoosier Racing Tire Corp., No. 2:07-cv-1294, 2011 WL 1748620 (W.D. Pa. May 6, 2011) (denying plaintiff's request that the Court appoint a special master to "address the technical issues regarding the types of e-discovery fees claimed by defendants [] and the reasonableness and necessity of" the e-discovery fees claimed as "costs" by defendants).*

In re Vioxx Prods. Liab. Litig., MDL No. 1657 § L, 2011 U.S. Dist. LEXIS 29261 (E.D. La. Mar. 21, 2011) (appointing a special master to oversee discovery in complex products liability case).

In re Application of Chevron Corp., No. 10 MC 00001 (LAK), 2010 WL 3489341 (S.D.N.Y. Sept. 7, 2010) (appointing special master at district court to preside over depositions to rule on objections and asserted privileges).

Trusz v. UBS Realty Investors LLC, No. 3:09 CV 268 (JBA), 2010 WL 3583064 (D. Conn. Sept. 7, 2010) (noting that if counsel are unable to agree on revised search terms for discovery of disputed documents, then the magistrate judge will appoint a special master to whom the parties can submit the dispute).

In re Toyota Motor Corp. Unintended Acceleration Mktg., Sales Practices, & Prods. Liab. Litig., No. 8:10ML2151 JVS (FMOx), 2010 WL 3260180 (C.D. Cal. Aug. 13, 2010) (finding that the volume of discovery warrants appointment of a special master to resolve discovery disputes).

Language Line Servs., Inc. v. Language Servs. Assoc., LLC, No. C 10-02605 JW, 2010 WL 2764714 (N.D. Cal. July 13, 2010) (concluding that due to the parties consent and the cost savings to the parties, which will result from a more focused management of the evidence, the appointment of a special master would be beneficial to the parties).

Rand ex rel. Dolch v. Am. Nat'l Ins. Co., No. C 09-639 SI, 2010 WL 2758720 (N.D. Cal. July 13, 2010) (considering, but not appointing, special master to address discovery issues).*

Philip M. Adams & Assocs. v. Dell, Inc., No. 1:05-CV-64 TS, 2010 WL 2733319 (D. Utah July, 9, 2010) (adopting the claim construction recommended by special master).

Platypus Wear, Inc. v. Horizonte Fabricacao Distribicao Importacao Exportacao LTDA, No. 08-20738-CIV, 2010 WL 1524691 (S.D. Fla. Apr. 15, 2010) (adopting special master's findings of fact).

In re TFT-LCD (Flat Panel) Antitrust Litig., No. M 07-1827 SI, MDL. No. 1827, 2010 WL 1264601 (N.D. Cal. Mar. 29, 2010) (recommending that the Department of Justice be permitted to review all civil discovery, but be prohibited from making any copies of foreign discovery of unindicted defendants).

Flintkote Co. v. Gen. Accident Assurance Co. of Can., No. C 04-1827 MHP, 2010 WL 770181 (N.D. Cal. Mar. 5, 2010) (overruling defendant's objections to the special master report because the objections are not actually objections but rather a defective motion for reconsideration of the court's ruling).

In re Avandia Mktg., Sales Practice, & Prod. Liab. Litig., Nos. CV030231, A134855, 2009 WL 4641707 (E.D. Pa. Dec. 7, 2009) (agreeing with the special master's report and recommendation that the majority of the documents reviewed in the case were not protected by attorney-client privilege).

In re Omeprazole Patent Litig., No. M-21-81BSJ, 2004 WL 842024 (S.D.N.Y. Apr. 16, 2004) (referring evidence to special master for in camera document review because of potentially privileged content).

Diversified Grp., Inc. v. Daugerdas, 304 F. Supp. 2d 507 (S.D.N.Y. 2003) (appointing special master to review documents for possible redaction. Both parties filed objections to the report of the special master, but the district court adopted the report with a few additional redactions).

United States v. Hardage, 750 F. Supp. 1460 (W.D. Okla. 1990) (finding that the appointment of a special master was necessary in CERCLA case due to complexity of the issues, the number of parties, and the need to expedite the matter), *aff'd*, 982 F.2d 1436 (10th Cir. 1992).

Nat'l Ass'n of Radiation Survivors v. Turnage, 115 F.R.D. 543 (N.D. Cal. 1987) (finding that the appointment of special master to supervise discovery, and sovereign immunity did not preclude the court from requiring a party to pay all costs of the special master).

United States v. AT&T Co., 461 F. Supp. 1314 (D.D.C. 1978) (appointing two special masters in antitrust suit to review 500 documents and make recommendations on privilege and relevance).

Omnium Lyonnais D'Etancheite et Revetement Asphalte v. Dow Chem. Co., 73 F.R.D. 114 (C.D. Cal. 1977) (finding that exceptional conditions existed requiring that discovery be held under supervision of special master).

Expert Master

Adkins v. VIM Recycling Inc., 644 F.3d 483 (7th Cir. 2011) (holding that the plaintiff's RCRA citizen suit should go forward, and that previously appointed special master was proper).

Domingo ex rel. Domingo v. T.K., 289 F.3d 600 (9th Cir. 2002) (appointing special master to evaluate medical testimony under *Daubert*).

Reilly v. United States, 863 F.2d 149 (1st Cir. 1988) (appointing special master to assist in calculating damages in medical malpractice case).*

United States v. Cline, 388 F.2d 294 (4th Cir. 1968) (using surveyor who served both as master and as expert witness in border dispute).

Danville Tobacco Ass'n v. Bryant-Buckner Assoc., Inc., 333 F.2d 202 (4th Cir. 1964) (upholding appointment of a special master with knowledge of tobacco marketing).*

Scott v. Spanjer Bros., Inc., 298 F.2d 928 (2d Cir. 1962) (appointing medical expert to examine infant plaintiff who may have suffered serious injuries which were difficult to diagnose).*

Mohr v. Erie Cnty. Legislature, No. 11-CV-559S, 2011 WL 3421326 (W.D.N.Y. Aug. 4, 2011) (holding that it was a virtual impossibility for the court to appoint a special master to recommend a redistricting plan, or to itself craft a redistricting plan, in a timeframe that would allow for the carrying and filing of designating petitions in accordance with deadlines established under New York's election law).

Amgen, Inc. v. Hoechst Marion Roussel, Inc., 339 F. Supp. 2d 202 (D. Mass. 2004) (appointing special master to assist in research, analysis, and drafting opinion in patent infringement case).

Xilinx, Inc. v. Altera Corp., Nos. 93-20409 SW, 96-90922 SW, 1997 WL 581426 (N.D. Cal. June 3, 1997) (appointing independent technical advisor in patent claim case to assist the court in understanding the relevant technology).*

Monitor or Other Remedial Role

Brown v. Plata, 131 S. Ct. 1910 (2011) (stating that courts faced with the sensitive task of remedying unconstitutional prison conditions must consider a range of available options, including appointment of special masters or receivers).

Local 28 of Sheet Metal Workers' Int'l. Ass'n v. EEOC, 478 U.S. 421 (1986) (appointing administrator to supervise union's membership practices to ensure compliance with court order).*

United States v. Prater, No. 10-12909, 2011 WL 6444584 (11th Cir. Dec. 22, 2011) (reviewing testimony from special master assigned to ensure compliance of court ordered injunction which supported defendants conviction).

Hofmann v. De Marchena Kaluche & Asociados, 657 F.3d 1184 (11th Cir. 2011) (reviewing appointment of a receiver-like "monitor" to oversee defendants' financial and business assets).

NLRB v. E-Z Supply Corp., No. 08-2077, 2010 WL 3449123 (2d Cir. Sept. 3, 2010) (appointing special master to examine the claims of respondent's counsel and oversee enforcement of the NLRB order).

Cobell v. Norton, 392 F.3d 461 (D.C. Cir. 2004) (finding that appointment of a monitor to report on defendants' compliance with injunction that required defendants to "fix the system" exceeded the scope of the district court's authority).*

Cobell v. Norton, 334 F.3d 1128 (D.C. Cir. 2003) (finding error where court monitor's role was supplemented by appointing him as special master-monitor, because his impartiality was doubted).*

Labor/Cnty. Strategy Ctr. v. L.A. Cnty. Metro. Transp. Auth., 263 F.3d 1041 (9th Cir. 2001) (appointing special master in connection with consent decree entered in civil rights action brought by bus passengers against county transportation authority), *cert. denied*, 535 U.S. 951 (2002).

Bogard v. Wright, 159 F.3d 1060 (7th Cir. 1998) (finding that order extending the term of the special master monitoring compliance with consent decree regarding treatment at state mental hospitals was a procedural order, not a grant of injunction or order continuing injunction).

Harris v. Philadelphia, 137 F.3d 209 (3d Cir. 1998) (appointing special master to monitor city's compliance with consent decree).

In re Scott, 163 F.3d 282 (5th Cir. 1998) (appointing special master to monitor implementation of judgments and injunction regarding conditions in state prisons).*

Inmates of D.C. Jail v. Jackson, 158 F.3d 1357 (D.C. Cir. 1998) (appointing special master to monitor compliance with orders to improve jail conditions).

Alexander S. v. Boyd, 113 F.3d 1373 (4th Cir. 1997) (appointing special master to monitor implementation of court-ordered improvements in conditions at juvenile detention facilities).

Hook v. Arizona, 120 F.3d 921 (9th Cir. 1997) (appointing special master to monitor compliance with prison reform decree).*

Hellebust v. Brownback, 42 F.3d 1331 (10th Cir. 1994) (appointing Governor as receiver in case challenging elections held by State Board of Agriculture).*

Juan F. by & through Lynch v. Weicker, 37 F.3d 874 (2d Cir. 1994) (finding that "court monitors" are given the same powers and are subject to the same limitations and standards as special masters).

United States v. Yonkers Bd. of Educ., 29 F.3d 40 (2d Cir. 1994) (holding that the district court did not overstep its constitutional authority by appointing a special master to implement a supplemental long term plan order in a housing segregation case).*

In re Pearson, 990 F.2d 653 (1st Cir. 1993) (appointing special master to monitor and analyze continuing efficacy of injunctive relief granted against treatment facility pursuant to consent decrees).*

United States v. City of Miami, 2 F.3d 1497 (11th Cir. 1993) (stating that the appointment of a special master did not constitute a palpable error as a matter of law in a decades-long litigation that was especially complex and immersed in continuing transition).*

Thomas S. by Brooks v. Flaherty, 902 F.2d 250 (4th Cir. 1990) (appointing special master to monitor decree requiring reforms at state psychiatric hospital).

Gary W. v. Louisiana, 861 F.2d 1366 (5th Cir. 1988) (appointing special master to monitor compliance with injunction and court order regarding state treatment of children with retardation placed in out-of-state institutions).*

Williams v. Lane, 851 F.2d 867 (7th Cir. 1988) (holding that appointment of a special master to supervise and coordinate the actions of prison officials to achieve full compliance was appropriate where non-compliance with a previous district court order was emphasized).*

Apex Fountain Sales, Inc. v. Kleinfeld, 818 F.2d 1089 (3d Cir. 1987) (finding that contempt motion that raised the single issue of whether exhibitions of fountains complied with consent decree and court order raised matters that were too simple to be referred to a special master).*

Brock v. Ing, 827 F.2d 1426 (10th Cir. 1987) (appointment of special master to determine amount due to employees prevailing in action brought pursuant to the Fair Labor Standards Act was proper, and reversing district court's order that both parties pay into master reimbursement fund, finding that Rule 53 permits the expense to be borne by the parties in proportion as fairness may suggest).

Nat'l Org. for Reform of Marijuana Laws v. Mullen, 828 F.2d 536 (9th Cir. 1987) (appointing special master to monitor compliance with preliminary injunction).*

Thompson v. Enomoto, 815 F.2d 1323 (9th Cir. 1987) (appointing special master to monitor prison reform compliance).*

Toussaint v. McCarthy, 801 F.2d 1080 (9th Cir. 1986) (appointing special master to monitor the implementation of the permanent injunction in prison reform case), *cert. denied*, 481 U.S. 1069 (1987).*

Hoptowit v. Ray, 682 F.2d 1237 (9th Cir. 1982) (appointing special master to monitor state prison system's compliance with court order and finding that placing master in control of state prison would have been in error).*

Ruiz v. Estelle, 679 F.2d 1115 (5th Cir. 1982) (upholding the appointment of special masters and monitors to supervise prison consent decree but finding that the order of reference to the monitors was too sweeping), *amended in part, vacated in part*, 688 F.2d 266 (5th Cir. 1982) (appointing special master to monitor implementation of the relief order), *cert. denied*, 460 U.S. 1042 (1983).*

United States v. City of Parma, 661 F.2d 562 (6th Cir. 1981) (appointing special master to oversee the provisions of the order in a Fair Housing Act case).*

Halderman v. Pennhurst State Sch. & Hosp., 612 F.2d 84 (3d Cir. 1979) (directing special master to "plan, organize, direct, supervise and monitor" the implementation of remedial order by a state facility for the mentally retarded), *rev'd on other grounds*, 451 U.S. 1 (1981).*

Reed v. Cleveland Bd. of Educ., 607 F.2d 737 (6th Cir. 1979) (appointing special master to give appraisal of desegregation plans submitted by defendants).*

Newman v. Alabama, 559 F.2d 283 (5th Cir. 1977) (appointing special master to monitor prison reform compliance case), *rev'd in part on other grounds*, 438 U.S. 781 (1978).*

Ohio Valley Env't. Coal., Inc. v. Patriot Coal Corp., No. CIV. A. 3:11-0115, 2012 U.S. Dist. LEXIS 35161 (D. W.Va. Mar. 15, 2012) (reviewing consent decree, which calls for a process of appointing a special master to oversee the compliance requirements and for the court to retain limited jurisdiction during the implementation of the decree).

United States v. City of New York, No. 07–CV–2067 (NGG)(RLM), 2012 WL 745560 (E.D.N.Y. Mar. 8, 2012) (finding that a special master could be appointed and was appointed to determine a claimant's eligibility for remedial plan).

Sierra Club v. Fola Coal Co., LLC., CIV. A. No. 2:10-1199, 2012 U.S. Dist. LEXIS 17466 (D. W.Va. Feb. 9, 2012) (reviewing consent decree, which provided that if the special master makes a negative determination with respect to defendant's compliance with the narrative water quality standards pursuant to the decree, defendant shall pay an additional fee to the West Virginia Land Trust).

United States v. Territory of the Virgin Islands, No. 1986-265, 2012 U.S. Dist. LEXIS 15524 (D.V.I. Feb. 8 2012) (reviewing case in which special master was appointed to assist court in evaluating compliance).

In re Eunice Train Derailment, No. 00–1267, 2012 WL 70651 (W.D. La. Jan. 9, 2012) (appellant objects to the allocation of special master).*

Greater New Orleans Fair Housing Center v. St. Bernard Parish, Nos. 11–858, 11–737, 2012 WL 27785 (E.D. La. Jan. 5, 2012) (plaintiff's request the court appoint a special master to oversee future disputes that arise between the parties).

Lee v. Marvel Enters., 765 F. Supp. 2d 440 (S.D.N.Y 2011) (stating that, in a related case, another district court appointed a special master to oversee shareholders meeting due to past misconduct by the board of directors).

Windisch v. Hometown Health Plan, Inc., No. 3:08-cv-00664-RCJ-WGC, 2011 U.S. Dist. LEXIS 116657 (D. Nev. Sept. 28, 2011) (stating that the court may appoint a special master to work with the parties to stipulate facts).

Fisher v. United States, Nos. CV 74-90 TCV DCB (lead case), CV 74-204 TVC DCB (consolidated case), 2001 U.S. Dist. LEXIS 104315 (D. Ariz. Sept. 13, 2011) (appointing special master oversee and enforce desegregation plan and discussing details for appointing and paying special master).

Toerner v. Cameron Parish Police Jury, No. 2:11 CV1302, 2011 U.S. Dist. LEXIS 90584 (W.D. La. Aug. 14, 2011) (appointing special master to avoid malapportionment problems).*

In re Nims, No. 11–15968–TJC, 2011 WL 1402771 (Bankr. D. Md. Apr. 13, 2011) (stating that a court must determine on a case by case basis what constitutes "cause" for purposes of granting automatic stay "for cause," and citing a 1992 case, *In re Robbins* (964 F.2d 342), in which a special master was used in a divorce proceeding. In that case, the parties agreed to let a special master hear the issue of how to divide the couple's stock, worth \$4,000,000, and special master issued a report that the wife was entitled to the cash value of the stock at the time of the divorce).

Consumer Advisory Bd. v. Harvey, 697 F. Supp. 2d 131 (D. Me. 2010) (appointing special master to oversee consent decree requiring defendant to improve conditions of state mental institution).

Woodard v. Andrus, 272 F.R.D. 185 (W.D. La. 2010) (stating that use of a special master is appropriate "when liability has been determined in favor of the class and a formula for individual proof of damages has been established that is capable of being uniformly applied").

Mueller v. U.S. of Am.-Corp., No. EDCV 10-00276-DSF, 2010 U.S. Dist. LEXIS 128971 (C.D. Cal. Oct. 22, 2010) (mentioning that a referee was appointed by the state court in a partition action to sell the subject real estate).

Evans v. Fenty, No. 76-0293 (ESH), 2010 WL 1337641 (D.D.C. Apr. 7, 2010) (appointing special masters to make findings and recommendations addressing defendants' noncompliance with court orders, the available options for curing identified deficiencies, and whether a receivership was the most effective and efficient remedy available to the court).

Doe v. Sec'y of Dep't of Health & Human Servs., 2010 WL 1369464 (Fed. Cl. Apr. 1, 2010) (appointing special master to issue a decision in conformity with parties' stipulated settlement agreement).

United States v. S. Fla. Water Mgmt. Dist., No. 88-1886-CIV, 2010 WL 1292275 (S.D. Fla. Mar. 31, 2010) (adopting special master's recommendations).

Coleman v. Schwarzenegger, No. CIV S-90-0520 LKK JFM P, 2010 WL 55886 (E.D. Cal. Jan. 4, 2010) (appointing special master to monitor and report on defendants filing of a long-range prison bed plan).

Triple Five of Minn., Inc. v. Simon, 280 F. Supp. 2d 895 (D. Minn. 2003) (appointing special master as trustee of constructive trust in partnership dispute), *aff'd in part, rev'd in part on other grounds*, 404 F.3d 1088 (8th Cir. 2005).

United States v. Berks Cnty, Pa., 250 F. Supp. 2d 525 (E.D. Pa. 2003) (appointing special master to work with county to fashion a remedy in voting rights case).

Duane B. v. Chester-Upland Sch. Dist., No. CIV. A. 90-0326, 1994 WL 724991 (E.D. Pa. Dec. 29, 1994) (appointing special master to help plaintiffs "fashion coherent and precise goals and plans" to move toward compliance with remedial orders).

Alberti v. Klevenhagen, 660 F. Supp. 605 (S.D. Tex. 1987) (appointing special master to monitor compliance with consent judgment in context of prison reform), *modified on other grounds*, 688 F. Supp. 1210 (S.D. Tex. 1987), *aff'd in part, rev'd in part on other grounds*, 903 F.2d 352 (5th Cir. 1990).

Fox v. Bowen, 656 F. Supp. 1236 (D. Conn. 1987) (appointing special master to assist in administering and evaluating the relief provided by the court's judgment relating to Medicare benefits for physical therapy).

N.Y. Ass'n for Retarded Children, Inc. v. Carey, 551 F. Supp. 1165 (E.D.N.Y. 1982) (appointing special master to monitor and oversee compliance with consent decree), *rev'd in part on other grounds*, 706 F.2d 956 (2d Cir. 1983).

Jones v. Wittenberg, 73 F.R.D. 82 (N.D. Ohio 1976) (appointing special master to supervise county sheriff and county commissioners compliance with court's order to remedy conditions in jail).

Taylor v. Perini, 413 F. Supp. 189 (N.D. Ohio 1976) (appointing special master to monitor prison reform compliance case).

Morales v. Turman, 364 F. Supp. 166 (E.D. Tex. 1973) (appointing ombudsman to report to the court any matters concerning the operation of the Mountain View juvenile facility, especially any violations of the court's order).

Propriety of Appointments Under Rule 53

La Buy v. Howes Leather Co., 352 U.S. 249 (1957) (holding that the district court abused its discretion in referring matters in antitrust cases to a special master before it determined liability).*

Frost v. S. Carolina Dep't of Correction, No. 5:11-2520-JFA-KDW, 2012 WL 786835 (D.S.C. Mar. 9, 2012) (denying the Plaintiff's motion for appointment of a special master).

Rowles v. Chase Home Fin., LLC, No. 9:10-CV-01756-MBS, 2012 WL 80570 (D.S.C. Jan. 10, 2012) (reconfirming the appointment of the special master for all purposes specified in the settlement and to provide the verified report on the amounts awarded).

Eads v. Astrue, No. 11-1968, 2011 U.S. Dist. LEXIS 152697 (E.D. Pa. Dec. 20, 2011) (finding that where the magistrate judge has been appointed as special master under Federal Rule of Civil Procedure 53, the procedure under that rule shall be followed).

Kifafi v. Hilton Hotels Ret. Plan, No. 98-1517(CKK), 2011 U.S. Dist. LEXIS 97511 (D.D.C. Aug. 31, 2011) (declining to appoint a special master despite the parties' suggestions, stating that the dispute could be "effectively and timely addressed by an available . . . magistrate judge of the district").

Taylor v. Islamic Republic of Iran, No. 10-cv-844 (RCL), 2011 WL 3796156 (D.D.C. Aug. 29, 2011) (finding that appointment of a special master would not impose undue expenses on any party and will not result in unreasonable delay).

Univ. of Pittsburgh v. Varian Medical Sys., Inc., No. 2:08-CV-01307-AJS, 2011 WL 1877663 (W.D. Pa. Apr. 6, 2011) (appointing special master pursuant to Rule 53 to conduct a claim construction hearing and to make recommendations to the District Court regarding the legal construction of the disputed claim terms in the patents-in-suit).

Hart v. Pa. Bd. of Prob. & Parole, No. CA 10-4594, 2011 WL 925457 (E.D. Pa. Jan. 6, 2011) (stating that where the magistrate judge has been appointed as special master under Rule 53, the procedure under that rule shall be followed).

In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mex., 731 F. Supp. 2d 1352 (J.P.M.L. 2010) (explaining that most multidistrict proceedings do not require the oversight of more than one judge and that the judge assigned to complex litigation arising out of the sinking of an offshore oil rig may choose to enlist special masters and other administrative tools at his disposal to assist in the complex multidistrict litigation).

Ball v. Rodgers, No. CV 00-67-TUC-EHC, 2010 WL 797146 (D. Ariz. Mar. 8, 2010) (denying plaintiff's motion to appoint a special master because plaintiff failed to show that there were any complex matters, exceptional conditions, or post-trial matters that could not be effectively and timely addressed by the court).

Receiver

Hinckley v. Gilman, Clinton, & Springfield R.R. Co., 94 U.S. 467 (1876) (stating that the appointed receiver to a foreclosure suit had the right to appeal a decree ordering him to pay a balance owed on the settlement of his account).

United States v. Yonkers Bd. of Educ., 29 F.3d 40 (2d Cir. 1994) (holding that the district court did not overstep its constitutional authority by appointing a special master to implement a supplemental long term plan order in a housing segregation case).*

Morgan v. McDonough, 540 F.2d 527 (1st Cir. 1976) (appointing a receiver as part of remedy in school desegregation case).

United States v. City of New York, 731 F. Supp. 2d 291 (E.D.N.Y. 2010) (explaining that the court enlisted a special master to develop a new valid firefighter selection procedure for the city's fire department).

Levin v. Garfinkle, 514 F. Supp. 1160 (E.D. Pa. 1981) (holding that plaintiff who obtained a judgment in an action for fraud, misrepresentation, and breach of fiduciary duty was entitled to a court-appointed receiver when defendants persisted in conduct that clearly manifested an intent to frustrate plaintiff's attempt to execute on the judgment).

United States v. City of Detroit, 476 F. Supp. 512 (E.D. Mich. 1979) (appointing mayor as temporary administrator of the Detroit wastewater treatment plant to perform the functions of a receiver and to facilitate compliance with EPA orders and consent decrees).

Turner v. Goolsby, 255 F. Supp. 724 (S.D. Ga. 1965), *supp'd* by 255 F. Supp. 724 (S.D. Ga. 1966) (appointing and later dismissing the State School Superintendent of Georgia as the receiver for the school district in school desegregation case).

Gross v. Mo. & Ark. Ry. Co., 74 F. Supp. 242 (W.D. Ark. 1947) (holding that the appointment of a receiver to take charge of the subject of the dispute was appropriate pending resolution of case).

Report on Attorney Fees

United States v. Sufi, No. 11-1190, 2012 WL 118458 (6th Cir. Jan. 13, 2012) (upholding magistrate judge's order for defendant to reimburse the government for appointed counsel).

Patel v. Attorney Gen. of the U.S., 426 Fed. App'x 116 (3d Cir. 2011) (appointing master in immigration litigation to provide a recommendation as to the number of hours, costs and expenses to be awarded to the appellant for fees he paid immigration attorneys in order to stay in U.S).

In re Zyprexa Prods. Liab. Litig., 594 F.3d 113 (2d Cir. 2010) (discussing special masters approved cost, disbursement, and fee payments to plaintiffs from general settlement fund).

Perez v. Carey Int'l, Inc., No. 08-16115, 2010 WL 1408288 (11th Cir. 2010) (issuing order adopting special master's report, except with regard to lowering recommended amount of attorneys' fees).

Univ. of Pittsburgh of the Commonwealth Sys. of Higher Educ. v. Varian Med. Sys., Inc., No. 08CV1307, 2012 WL 2513496 (W.D. Pa. June 29, 2012) (discussing the appointment of a special master to oversee limited discovery on attorney's fees).

United States v. Konrad, CRIM. A. 11-15, 2011 WL 6739464 (E.D. Pa. Dec. 21, 2011) (borrowing from the provisions of Federal Rules of Civil Procedure 53, and Rule 54(a)(2)(D), which specifically allow a court to appoint a master to assist the court in determining the amount of attorneys fees).

Westefer v. Snyder, Civil No. 00-162-GPM Consolidated with Civil No. 00-708-GPM, 2011 U.S. Dist. LEXIS 14989 (S.D. Ill Feb. 15, 2011) (reviewing court's appointment of special master after it notified the parties, on its own motion, that it was considering the appointment of a special master to determine the attorneys' fees and costs to be awarded, and reviewing the parties' comments).*

In re Tyco Int'l Ltd. Multidistrict Litig., No. 02-md-1335-B, 2010 U.S. Dist. LEXIS 142865 (D.N.H. Dec. 3, 2010) (appointing special master to decide a dispute over attorney fees and adopting the report of the special master in its entirety).

Allstate Ins. Co., v. Leong, No. 09-00217 SOM/KSC, 2010 WL 3210753 (D. Haw. Aug. 13, 2010) (issuing order adopting report of the special master awarding attorneys' fees to prevailing party).

Cerdes v. Cummins Diesel Sales Corp., No. 06-922, 2010 WL 2835755 (E.D. La. July 15, 2010) (order adopting recommendation of special master awarding lodestar fees to plaintiffs against their objection).

In re AOL Time Warner S'holder Derivative Litig., No. 02 Civ. 6302(CM), 2010 WL 363113 (S.D.N.Y. Feb. 1, 2010) (issuing order adopting recommendation of special master concerning award of lodestar fees).

Dulatre v. Astrue, No. 03-00653 DAE-KSC, 2010 WL 26537 (D. Haw. Jan. 26, 2010) (issuing order adopting report of special master recommending grant of attorneys' fees pursuant to statute).

Haw. Nurses' Ass'n v. Queen's Med. Ctr., No. 09-00235 SOM-LEK, 2010 WL 157479 (D. Haw. Jan. 15, 2010) (issuing order adopting report of special master, denying award of plaintiffs' attorneys' fees).

Taylor H. v. Dept. of Educ., No. 09-00020 SOM-LEK, 2010 WL 157481 (D. Haw. Jan. 15, 2010) (issuing order adopting special master's recommendation that plaintiffs' motion for attorneys' fees and costs be granted in part and denied in part).

Sierra Club v. Johnson, No. C 08-01409 WHA, 2010 WL 147951 (N.D. Cal. Jan. 12, 2010) (issuing order granting entitlement to attorneys' fees, vacating hearing, and allowing for appointment of special master in the event of future fee disputes).

Skaaning v. Sorensen, 679 F. Supp. 2d 1220 (D. Haw. 2010) (issuing order modifying report of special master that recommended defendants' motions for attorneys' fees be denied).

Report on Liability/Motions/Damages by Master

South Carolina v. North Carolina, 130 S. Ct. 854 (2010) (referring matter to special master for consideration of motions by various nonstate entities for leave to intervene).

O'Brien v. Islamic Republic of Iran, No. 06-cv-690 (RCL), 2012 U.S. Dist. LEXIS 42091 (D.C. Cir. Mar. 28, 2012) (reviewing the special masters award of damages relating to the damages suffered by all plaintiffs in this case).

Valida v. Schwarzenegger, 599 F.3d 984 (9th Cir. 2010) (adopting the injunction-related recommendations of the court-appointed special master regarding the use of hearsay evidence in parole revocation hearings).

Wilkerson v. Sec'y of Health & Human Servs., 593 F.3d 1343 (Fed. Cir. 2010) (holding trial to determine compensation for vaccination-related injuries before a special master of the Court of Federal Claims).

United States v. City of New York, No. 07-CV-2067, 2012 U.S. Dist. LEXIS 133283 (E.D.N.Y. Sept. 18, 2012) (determining damages to be awarded to black victims of New York City's discriminatory entry-level firefighter exam).

Bergstrom, Inc. v. Glacier Bay, Inc., No. 08-C-50078, 2012 WL 787240 (N.D. Ill. Mar. 9, 2012) (using *de novo* review to modify the master's findings of facts and conclusions of law).

Reynolds v. Ala. Dep't of Transp., Civil Action No. 2:85CV665-MHT, 2012 WL 444009 (M.D. Ala. Feb. 13, 2012) (appointing special master to provide recommendation as to the merits of defendant's motion for summary judgment).

Moffett v. Computer Scis. Corp., No. 805-CV-01547, 2011 WL 4381760 (D. Md. Sept. 18, 2011) (appointing special master to issue report and recommendation concerning the plaintiff's application to FEMA for waiver of proof of loss requirements).

Pe Chi-A Vang v. Cooper Tire & Rubber Co., No. 11-614, 2011 WL 2728328 (D. Minn. June 10, 2011) (implementing order of special master where plaintiff sustained injuries from defendant company's tires).

In re Bayou Sorrel Class Action, No. 6:04CV1101, 2011 U.S. Dist. LEXIS 71010 (W.D. La. Apr. 27, 2011) (appointing special master to consider remaining claims under terms of a settlement agreement to determine whether matter could be considered final and closed).

Absolute Software, Inc. v. Stealth Signal, Inc., 731 F. Supp. 2d 661 (S.D. Tex. 2010) (adopting special master's report and recommendation on claims construction in patent infringement case), *aff'd in part, rev'd in part*, Nos. 2010-1503, 2010-1504, 2011 WL 4793149 (S.D. Tex. Oct 11, 2011).

Cooley v. Lincoln Elec. Co., 693 F. Supp. 2d 767 (N.D. Ohio 2010) (adhering to special master's ruling that certain of the expert opinions were not admissible at trial).

Grant v. Metro Gov't of Nashville, 727 F. Supp. 2d 677 (M.D. Tenn. 2010) (appointing special master to develop remediation plan in racial discrimination case), *rev'd*, Nos. 10-5944, 10-6233, 2011 WL 3796329 (M.D. Tenn. Aug. 26, 2011).

Networks USA X, Inc. v. Nationwide Mut. Ins. Co., 748 F. Supp. 2d 836 (E.D. Tenn. 2010) (appointing special master to determine what amounts of rents and charges had been underpaid or overpaid).

Cont'l Cas. Co. v. Fleming Steel Co., No. 06–829, 2010 WL 4668955 (W.D. Pa. Nov. 9, 2010) (adopting the report and recommendation of a special master who had been appointed to perform an accounting of the damages alleged by Schlosser in its counterclaim against Fleming Steel).

Phelps v. Parsons Tech. Support, Inc., No. 2:09-0327-JMS-WGH, 2010 U.S. Dist. LEXIS 116166 (S.D. Ind. Oct. 29, 2010) (mentioning in passing, that if necessary, a district court can appoint a special master to "resolve a difficult computation of damages").

Medimmune, LLC v. PDL Biopharma, Inc., No. C08-5590 JF (HRL), 2010 WL 3636211 (N.D. Cal. Sept. 14, 2010) (appointing special master to review evidence in camera and to advise the court of whether evidence contains any information relevant to liability).

Chrimar Sys., Inc. v. Foundry Networks LLC, No. 06-13936, 2010 WL 3431569 (E.D. Mich. Aug. 30, 2010) (adopting special master's report in patent infringement case).

Mon River Towing, Inc. v. Salvage Co., No. 06-1499, 2010 WL 1337693 (W.D. Pa. Mar. 31, 2010) (appointing special master to consider lost profit damages).

Valore v. Republic of Iran, No. M07-1827 SI, 2010 WL 1264601 (N.D. Cal. Mar. 29, 2010) (adopting recommendation of special master that DOJ be permitted to review all civil discovery but be prohibited from making copies of overseas discovery).

Roger Miller Music, Inc. v. Sony/ATV Publ'g, LLC, No. 3:04-1132, 2010 WL 1026980 (M.D. Tenn. Mar. 18, 2010) (appointing special master to determine damages in copyright infringement case).

In re Moretto, 440 B.R. 534 (B.A.P. 8th Cir. 2010) (appointing special master to determine amount of restitution owed by party to bankruptcy proceeding).

Settlement Master

In re Giradi, 611 F.3d 1027 (9th Cir. 2010) (appointing special master to oversee further proceedings on sanctions and/or discipline, after extensive litigation).

In re Austrian & Germ. Bank Holocaust Litig., 317 F.3d 91 (2d Cir. 2003) (appointing special master to assist in settlement negotiations).

Goodrich Corp. v. Town of Middlebury, 311 F.3d 154 (2d Cir. 2002) (finding that district court did not abuse its discretion in deferring to special master's allocation recommendations after special master attempted settlement and conducted evidentiary hearings), *cert. denied*, 539 U.S. 937 (2003).

Whitehouse v. LaRoche, 277 F.3d 568 (1st Cir. 2002) (appointing special master to oversee establishment and use of settlement fund for new sewage treatment facility).

AccuSoft Corp. v. Palo, 237 F.3d 31 (1st Cir. 2001) (appointing special master to monitor compliance with settlement agreement).

Cook v. Niedert, 142 F.3d 1004 (7th Cir. 1998) (finding that district court did not abuse its discretion in rejecting special master's recommendations in ERISA case where special master was appointed to make a recommendation for calculating attorney's fees).

Hemelt v. United States, 122 F.3d 204 (4th Cir. 1997) (finding that erroneous belief of special master and parties that settlement fund in class-action lawsuit under ERISA could include extracontractual person injury damages did not affect characterization of amounts received under settlement as not qualifying for exclusion from taxable income available for damages received on account of personal injuries or sickness).

United States v. Montrose Chem. Corp. of Cal., 50 F.3d 741 (9th Cir. 1995) (appointing special master to supervise all non-dispositive pre-trial proceedings and to conduct and supervise settlement negotiations, and holding that district court is entitled to rely upon recommendations of special master in deciding whether to approve consent decree, but reliance cannot be so complete that it takes the place of court's obligation to independently scrutinize terms of settlement).

United States v. Charles George Trucking, Inc., 34 F.3d 1081 (1st Cir. 1994) (appointing settlement master in CERCLA case after settlement negotiations began in earnest).

In re Fema Trailer Formaldehyde Prod. Liab. Litig., No. 2:07-MD-1873, 2012 U.S. Dist. LEXIS 146679 (E.D. La. Sept. 27, 2012) (supervising implementation of the settlement notice plan).

Sarabri v. Weltman, Weinberg & Reis Co., L.P.A., Civil No. 10CV1777, 2012 WL 3809123 (S.D. Cal. Sept. 4, 2012) (assisting with mediation and settlement by entering into a class action settlement agreement pursuant to Fed. R. Civ. P. 23).

Jensen v. Minn. Dep't of Human Servs., No. 09-1775, 2012 U.S. Dist. LEXIS 98703 (D. Minn. July 17, 2012) (monitoring compliance with settlement agreement).

Med. Assurance Co., Inc., v. Weinberger, No. 4:06 CV 117, 2012 WL 1455214 (N.D. Ind. Apr. 26, 2012) (affirming appointment of special master to oversee settlement negotiations).

Cason-Merenda v. Detroit Med. Ctr., No. 06-15601, 2012 U.S. Dist. LEXIS 38810 (E.D. Mich. March 22, 2012) (overseeing settlement negotiations).

24 Hour Fitness USA, Inc. v. Ramirez, No. 12-2038-SAC, 2012 WL 859725 (D. Kan. Mar. 13, 2012) (appointing special master in arbitration proceeding to determine whether a particular person was covered by an arbitration agreement, what arbitration agreement applies, what terms of arbitration are enforceable, where and before who cases will be arbitrated, order of cases being arbitrated, and resolving pending and future motions).

Byrd v. Time Warner Cable, No. 1:09-CV-772, 2012 WL 368208 (S.D. Ohio Feb. 3, 2012) (enforcing a verbal settlement agreement made during a conference overseen by the magistrate).

In re Sept. 11 Litig., 760 F. Supp. 2d (S.D.N.Y. 2011) (appointing special master to develop regulations to provide recoveries from federal funds to surviving victims and to families of deceased victims. and to administer the Victim Compensation Fund ("VCF")).

Clearplay, Inc. v. Nissim Corp., No. 07-81170-CIV-HUCK/BANDSTRA, 2011 U.S. Dist. LEXIS 146861 (S.D. Fla. Dec. 21, 2011) (holding that plaintiff could have arbitrated before a special master, but that plaintiff failed to exercise that option and therefore defendant was free to proceed to litigation).

United States v. Mastellone, No. 10 Civ. 7374 (DLC), 2011 WL 4031199 (S.D.N.Y. Sept. 12, 2011) (appointing special master to review claims submitted by individuals suffering physical harm as a result the events of September 11, 2001, and to determine the amount of the award to be paid to each claimant from the DOJ Fund administered by the Attorney General).

In re Metlife Demutualization Litig., 689 F. Supp. 2d 297 (E.D.N.Y. 2010) (finding that utilization of a single special settlement master and joint hearings on the settlement permitted termination of the litigation with minimal transaction costs, on the merits).

Red v. Unilever PLC, No. C 10-00387, 2010 WL 3629689 (N.D. Cal. Sept. 14, 2010) (ordering the appointment of a special master and appointment to hold any settlement funds being paid for attorney fees).

Active Prods. Corp. v. A.H. Choitz & Co., 163 F.R.D. 274 (N.D. Ind. 1995) (appointing a panel of special masters and a chair to coordinate activities of masters necessary to manage a case filed by 23 named plaintiffs on behalf on themselves and 66 other parties, and naming as defendant 1,181 individual and corporate entities).

In re Propulsid Prods. Liab. Litig., MDL No. 1355, 2004 WL 1541922 (E.D. La. June 25, 2004) (considering joint motion and order for the appointment of a special master).

Trial Master

Kansas v. Nebraska, 131 S. Ct. 1847 (2011) (appointing special master with authority to fix the time and conditions for the filing of additional pleadings, to direct subsequent proceedings, to summon witnesses, to issue subpoenas, and to take such evidence as may be introduced and such as he may deem necessary).

Montana v. Wyoming, 131 S. Ct. 1765 (2011) (appointing special master to consider complaint filed by State of Montana alleging that Wyoming breached Yellowstone River Compact by allowing its upstream pre-1950 water users to switch from flood to sprinkler irrigation, which increased crop consumption of water and decreased volume of runoff and seepage returning to the river system; special master found that Montana failed to state claim).

In re Peterson, 253 U.S. 300 (1920) (discussing appointment of an auditor to investigate facts, hear witnesses, examine accounts of the parties, sort out allegations, and make and file a report to clarify the issues in dispute).*

Heckers v. Fowler, 69 U.S. 123 (1864) (finding that referee not required, either by agreement of the parties or trial court order, to report specifically what his finding was upon the issues).*

Chang v. United States, Civil No. 02-2010 (EGS/JMF), 2012 U.S. Dist. LEXIS 1112 (D.C. Cir. Jan. 5, 2012) (holding by special master that plaintiff's deposition will be allowed while Ms. Pressley's deposition will not be allowed).

Priceline.com, Inc. v. Silberman, 405 F. App'x 532 (2d Cir. 2010) (appointing special master at district court to work with the parties to review and amend, as appropriate, the plan for class notice and distribution of the net settlement fund; special master also recommended that claims by three travel booking companies be denied).

In re Kensington Int'l Ltd., 353 F.3d 211 (3d Cir. 2003) (appointing special master to preside over bankruptcy proceedings in mass tort asbestos litigation).

Charter Oak Fire Ins. Co. v. Hedeem & Cos., 280 F.3d 730 (7th Cir. 2002) (finding that in review of attorney's fees application the district court accepts a special master's findings of fact unless they are clearly erroneous).

Shafer v. Army & Air Force Exch. Serv., 277 F.3d 788 (5th Cir. 2002) (appointing special master to investigate plaintiff's individual claims of non-promotion after a decision was made in a Title VII class action suit alleging sex discrimination).

Schaefer Fan Co., Inc. v. J & D Mfg., 265 F.3d 1282 (Fed. Cir. 2001) (appointing special master to resolve disputes regarding compliance with settlement agreement and interpret terms of the agreement).

Sierra Club v. Clifford, 257 F.3d 444 (5th Cir. 2001) (appointing special master to conduct hearings and issue a report on alleged violations of the Clean Water Act).*

Kona Enters., Inc. v. Estate of Bishop, 229 F.3d 877 (9th Cir. 2000) (appointing special master to hear attorney's fees motion).

United States ex rel. Newsham v. Lockheed Missiles & Space Co., Inc., 190 F.3d 963 (9th Cir. 1999) (referring all pretrial matters to special master; heard motion to dismiss), *cert. denied*, 530 U.S. 1203 (2000).

United States v. Microsoft Corp., 147 F.3d 935 (D.C. Cir. 1998) (finding that reference of nonjury action to special master constituted abuse of discretion).*

Reiter v. Honeywell, Inc., 104 F.3d 1071 (8th Cir. 1997) (finding that appointment of special master to preside over jury trial of employment dispute was improper where the only reason given for the appointment was that the case had been on the docket more than one year).*

Hilao v. Estate of Marcos, 103 F.3d 767 (9th Cir. 1996) (appointing special master as trial master and court-appointed expert witness; supervised depositions, reviewed claim forms, and recommended compensatory damages for alleged victims of human rights violations).

Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co. Ltd., 72 F.3d 857 (Fed. Cir. 1995) (holding that appointment of special master to conduct a hearing and make recommendations on patent validity and infringement rendered trial fatally flawed), *vacated on other grounds*, 520 U.S. 1111 (1997).*

Gottlieb v. Barry, 43 F.3d 474 (10th Cir. 1994) (finding that in review of application for attorney's fees, trial court erred by summarily rejecting the special master's selection of the percentage method for attorney's fees).

Griffin v. Mich. Dep't of Corr., 5 F.3d 186 (6th Cir. 1993) (appointing special master in Title VII gender discrimination case to determine what position plaintiff would have held had she not be subject to gender discrimination).

In re Joint E. & S. Dists. Asbestos Litig., 14 F.3d 726 (2d Cir. 1993) (appointing special master to hold hearing to determine extent of defendant's financial assets and impact of potential claims for damages).

Stauble v. Warrob, Inc., 977 F.2d 690 (1st Cir. 1992) (finding that appointment of master to make recommendation on fundamental issues of liability over the objection of one party was improper).*

Burlington N. R.R. Co. v. Dep't of Revenue of Wash., 934 F.2d 1064 (9th Cir. 1991) (finding that lower court abused its discretion in referring entire case to a special master because the circumstances of the case were not exceptional).*

In re U.S. Dep't of Def., 848 F.2d 232 (D.C. Cir. 1988) (appointing special master to review allegedly classified documents in FOIA case).*

Baker Indus., Inc. v. Cerebrus, Ltd., 764 F.2d 204 (3d Cir. 1985) (finding that where trial issues were referred to a referee for final decision, party that challenged referee's order had to pay the other side's attorneys fees incurred in defending against the challenge).

In re Armco Inc., 770 F.2d 103 (8th Cir. 1985) (finding that it is an error to refer trial on merits to master, but proper to refer all pretrial matters, as well as to give power to hear and make recommendations on dispositive motions).*

Jack Walters & Sons Corp. v. Morton Bldg., Inc., 737 F.2d 698 (7th Cir. 1984) (finding that appointment of master in complex antitrust matter was appropriate, however the court emphasized that in the future, a showing of "some exceptional condition" is required to justify the reference to a master).*

Dixon v. Sec'y of Dep't of Health & Human Servs., 61 Fed. Cl. 1 (Fed. Cl. 2004) (appointing special master to conduct evidentiary hearing).

Carlson v. FedEx Ground Package Sys., No. CV-05-85-BU-SHE, 2012 U.S. Dist. LEXIS 144730 (D. Mont. Oct. 5, 2012) (adopting special master's findings and recommendations).

United States v. City of Detroit, No. 77-7100, 2012 U.S. Dist. LEXIS 144526 (E.D. Mich. Oct. 5, 2012) (submitting proposed "plan of action" to the court).

Krys v. Aaron, No. 08 Civ. 7416, 2012 U.S. Dist. LEXIS 130306 (S.D.N.Y. Sept. 11, 2012) (accepting and adopting special master's report and recommendation).

In re Refco Inc. Secs. Litig., No. 07 Civ. 8165, 2012 U.S. Dist. LEXIS 124456 (S.D.N.Y. Aug. 29, 2012) (affirming special master's recommendation that plaintiff's motion to dismiss the indemnity counterclaims be granted in part and denied in part).

Equal Employment Opportunity Commission v. Local 28 of the Sheet Metal Workers' Int'l Ass'n,

No. 71 Civ. 2877, 2012 U.S. Dist. LEXIS 115947 (S.D.N.Y. Aug. 9, 2012) (determining special master had jurisdiction to hear Amended Affirmative Action complaint).

Jacks v. Lempke, No. 09 Civ. 8768, 2012 U.S. Dist. LEXIS 109403 (S.D.N.Y. July 23, 2012) (appointing special master to investigate and report on the veracity of petitioner's various medical complaints).

MSC Software Corp. v. Altair Eng'g, Inc., No. 07-12807, 2012 U.S. Dist. LEXIS 69107 (E.D. Mich. May 17, 2012) (adopting special master's report and recommendation).

Reynolds v. Alabama Dep't of Transp., Civil Action No. CV-85-T-665-N, 2012 WL 3100768 (N.D. Ala. May 1, 2012) (appointing special master to formulate recommendations and craft procedures for decertification of the hiring class).

Drazin v. Horizon Blue Cross Blue Shield of N.J., Inc., Civil Case No. 06-6219, 2012 U.S. Dist. LEXIS 68354 (D. N.J. May 15, 2012) (adopting special master's report and recommendation).

Cascade Yarns, Inc. v. Knitting Fever, Inc., No. C10-861RSM, 2012 WL 604348 (W.D. Wash. Feb. 24, 2012) (appointing a special master to oversee the conduct of discovery in part, and referred certain discovery issues to a magistrate judge for resolution).

High Point SARL v. Sprint Nextel Corp., No. 09-2269-CM-DJW, 2012 WL 234024 (D. Kan. Jan. 25, 2012) (appointing special master for in camera review of allegedly privileged documents in a motion to compel).

United States v. Slade, No. CR-09-1492-PHX-ROS, 2012 U.S. Dist. LEXIS 18511 (D. Ariz. Jan. 18, 2012) (appointing special master to resolve discovery issues).

Hobson v. Fischer, No. 10 Civ. 5512(SAS), 2011 WL 891314 (S.D.N.Y. 2011) (denying plaintiff's request for the appointment of a special master to investigate and monitor the conditions at issue in prison).

Nat'l Football Ass'n, 766 F. Supp. 2d 941 (D. Minn. 2011) (appointing special master to determine whether football league was in violation of the settlement and stipulation agreement entered into between the league and the professional football players).

In re FEMA Trailer, MDL No. 07-1873 Section "N" (5), 2011 U.S. Dist. LEXIS 122766 (E.D. La. Oct. 24, 2011) (granting joint motion for appointment of special master in multi-district litigation case).*

N. Natural Gas Co. v. Approximately 9117.53 Acres, No. 10-1232-WEB, 2011 U.S. Dist. LEXIS 112198 (D. Kan. Sept. 15, 2011) (appointing commission composed of three in land use cases to be sent to site for evidentiary purposes finding that appointment of commission more practical than having a jury on site).*

Schultz v. United States, No.: 8:10-cv-1612-T-17MAP, 2011 U.S. Dist. LEXIS 75999 (M.D. Fla. July 14, 2011) (holding that magistrate judge could properly rule on attorney's request to represent himself against fraud charges and that attorney was not permitted to challenge the order on its merits because he did not properly object, thus denying the court the opportunity to review the decision).

Meds. Co. v. Teva Parenteral Meds., Inc., No. 09-750-ER, 2011 WL 3290291 (D. Del. June 30, 2011) (referring matter to special master on defendants motion to compel re-designation of non-confidential information regarding motion to leave to file first amended answers and counterclaims; special master granted the motion).

Deters v. Davis, No. 3: 11-02-DCR, 2011 U.S. Dist. LEXIS 3836 (E.D. Ky. Jan. 14, 2011) (appointing trial commissioner, while his law partner helped with the prosecution in a license/bar related matter for defendant).*

Balla v. Idaho State Bd. of Corr., No. 1:81-cv-1165-BLW, 2011 U.S. Dist. LEXIS 1864 (D. Idaho Jan. 6, 2011) (appointing special master in a prison conditions case where plaintiffs alleged Eighth Amendment violations was the most cost effective and efficient way to investigate, evaluate, and address pending legal issues).*

Am. Presents, Ltd. v. Hopkins, 330 F. Supp. 2d 1217 (D. Colo. 2004) (finding that if parties cannot agree on attorney's fees, a special master will be appointed to determine those fees and the cost will be split between the parties).

Larios v. Cox, 306 F. Supp. 2d 1214 (N.D. Ga. 2004) (appointing special master to formulate reapportionment plans in a redistricting case).

United States v. Hardage, 750 F. Supp. 1460 (W.D. Okla. 1990) (finding that appointment of special master necessary in CERCLA case due to complexity of the issues, the number of parties, and the need to expedite the matter), *aff'd*, 982 F.2d 1436 (10th Cir. 1992).

Monmouth Cnty. Corr. Inst. Inmates v. Lanzaro, 695 F. Supp. 759 (D.N.J. 1988) (reviewing and mostly adopting special master report, by district court).

United States v. Conservation Chem. Co., 106 F.R.D. 210 (W.D. Mo. 1985) (finding that defendant chemical waste company's motion to revoke reference to special master for report and recommendation was untimely when made nine months after order of reference).*

United States v. Moss-Am., Inc., 78 F.R.D. 214 (E.D. Wis. 1978) (appointing special master to supervise the inspection and taking of samples of defendant's soil in pollution case).

Morgan v. Kerrigan, 401 F. Supp. 216 (D. Mass. 1975) (appointing panel of non-attorney masters in school desegregation case), *aff'd*, 530 F.2d 401 (1st Cir. 1976).

Hart v. Cmty. Sch. Bd. of Brooklyn, 383 F. Supp. 699 (E.D.N.Y. 1974) (appointing special master to craft remedy in school desegregation case).*

Special Masters' Fees

Kansas v. Nebraska, 132 S. Ct. 1618 (2012) (granting the special master's motion for allowance of fees and disbursements, and awarding the special master a sum to be allocated between Kansas, Nebraska, and Colorado).

Louisiana v. Mississippi, 466 U.S. 921 (1984) (awarding attorney's fees to a special master and his staff, for work in an original proceeding in the court, at contested rates of \$125 per hour for a fourth-year associate in a firm, \$70 per hour for a first-year associate, and \$50 per hour for summer law students).

In re Gilbert, 276 U.S. 6 (1928) (observing that accepting appointment as a special master means assuming “the duties and obligations of a judicial officer” and requires return of payments not allowed by order of court).

Lago Agrio Plaintiffs v. Chevron Corp., Nos. 10–4341–cv, 10–4405–cv(CON), 2010 WL 5151325 (2d Cir. 2010) (appointing special master to adjudicate claims of privilege and to recommend to district court an allocation of costs of special master to parties; holding costs of special master were to be divided between petitioners according to formula of their choosing, or in the alternative, formula adopted and directed by district court).

Cordoza v. Pac. States Steel Corp., 320 F.3d 989 (9th Cir. 2003) (holding that special master “has the right to appeal” order that he return certain fees and that compensation of special master did not have to be set according to fee schedule).

Suchite v. Kleppin, No. 10–21166–CIV, 2012 WL 1933555 (S.D. Fla. Mar. 23, 2012) (holding that defendants not entitled to reimbursement of special master fees because the master functioned as a special master and not a court-appointed expert, so such fees are not specifically listed as taxable in 28 U.S.C. § 1920).

Kaplan v. First Hartford Corp., No. 05–144–B–H, 2012 WL 425199 (D. Me. Feb. 9, 2012) (reviewing defendant’s objection to special master’s report regarding attorneys fees and finding that if the lawyers are unable to agree on a fee assessment, FED. R. CIV. P. 54(d)(2)(D) allows the court to refer the fee assessment to the special master).

Southersby Dev. Corp. v. Borough of Jefferson Hills, Civ. A. No. 09-208, 2011 WL 6179778 (W.D. Pa. Dec. 13, 2011) (reallocating costs incurred by the special master in determining which documents and/or portions of documents were privileged or should be partially redacted in order to protect the claim of privilege).

Mallonee v. Fahey, 122 F. Supp. 472 (S.D. Cal. 1954) (finding that master would be awarded \$75,000 and reasonable expenses for services rendered in the turn-back proceedings and \$25,000 and reasonable expenses for services rendered in discovery proceedings).

Conditions Under Which Masters Are Disqualified

Savoie v. Martin, No. 10-6529, 2012 WL 695531 (6th Cir. Mar. 6, 2012) (holding that a judge’s failure to recuse himself, although inadvisable, did not violate Tennessee Supreme Court rules).

Jenkins v. Sterlacci, 849 F.2d 627 (D.C. Cir. 1988) (finding that because of the “clearly erroneous” standard by which the factual determinations of special masters are reviewed, “the district court's oversight of a special master falls far short of plenary ‘control,’” and therefore a “special master must hold himself to the same high standards of recusal applicable to the conduct of judges”).

Hughes v. County of Washoe, No. 3:12-CV-00179-LRH, 2012 U.S. Dist. LEXIS 94346 (D. Nev. April 23, 2012) (finding special masters entitled to quasi-judicial immunity).

Stearns Bank Nat’l Assoc. v. Marrick Props., LLC, No. 8:11-CV-2305-T-30AEP, 2012 WL 1155657 (M.D. Fla. Apr. 5, 2012) (holding no basis for disqualification of proposed

special master existed where no judge was available to timely decide the matter and where federal courts routinely appoint special masters to conduct foreclosure sales).

Lindley v. Hackard & Holt, No. 3:05-CV-1476-L, 2012 WL 724517 (N.D. Tex. Mar. 6, 2012) (denying motion to disqualify special master).

Stearns Bank, N.A. v. Farrell Homes, Inc., No. 8:11-CV-1725-T-17EAJ, 2012 U.S. Dist. LEXIS 12811, 6-7 (M.D. Fla. Feb. 2, 2012) (holding that there was no basis for disqualification of the proposed special master).

Appealability

Deckert v. Independence Shares Corp., 311 U.S. 282 (1940) (finding that order referring an issue to a master is interlocutory and not generally appealable).

Pierce v. Delmonte, 474 Fed. App'x 1 (2d Cir. 2012) (holding special master's rejection of officer's claim pursuant to its authority under remedial order issued in ongoing Title VII litigation to review claims of race discrimination was not appealable).

Redmond v. Lake Cnty. Sheriff's Office, 414 Fed. App'x 221 (11th Cir. 2011) (citing former Fed. R. Civ. P. 72 that provided, with respect to nondispositive orders issued by magistrate judges, within 10 days after being served with a copy of the magistrate judge's order, a party may serve and file objections to the order; a party may not thereafter assign as error a defect in the magistrate judge's order to which objection was not timely made).

Schaub v. VonWald, 638 F.3d 905 (8th Cir. 2011) (holding that because this case was tried to the court and a master, by reason of Rule 52(b) [now Rule 52(a)(5)] the plaintiff was not required to raise the question of the sufficiency of the evidence to support the findings in the trial court to lay the foundation for its appeal).

Thompson v. Enomoto, 815 F.2d 1323 (9th Cir. 1987) (finding that order appointing special master to supervise compliance with consent decree was not an appealable interlocutory order).

Bays Exploration, Inc. v. PenSa, Inc., No. CIV-07-754-D, 2012 WL 4128120 (W.D. Okla. Sept. 18, 2012) (holding that the appointment of a special master would be inappropriate because the record contained sufficient evidence for the court to determine the allocation of charges and the evidence was not overly complex).

In re Mortgage Foreclosure Cases, No. 11-MC-88-M-LDA, 2012 WL 3011760 (D.R.I. July 23, 2012) (denying defendant's motion to stay the court's requirement that the parties mediate the cases assigned to the special master's docket without any time or cost limit).

Doe v. Bd. of Cnty. Commissioners of Craig County, No. 11-CV-0298-CVE-PJC, 2012 WL 2872790 (N.D. Okla. July 12, 2012) (denying plaintiff's motion for summary judgment in a declaratory judgment action in which the plaintiff was requesting appointment of special master to oversee implementation of policies).

Hooper v. Workman, No. CIV-07-515-M, 2011 WL 1935815 (W.D. Okla. 2011) (finding that Hay's refusal to answer questions posed by referee appointed by OCCA was not an affirmative waiver of his right to appeal and failed to address his competency).

Review of Master's Findings

Montana v. Wyoming, 131 S. Ct. 1765 (2011) (overruling Montana's filed exception to special master's report; special master found that Montana failed to state a claim).

Kimberly v. Arms, 129 U.S. 512 (1889) (holding that special master's findings should have been treated as "presumptively correct" and considered binding unless clearly in conflict with the weight of the evidence).

Language Line Servs., Inc. v. Language Servs. Assocs., Inc., No. 11-17757, 2012 WL 4337722 (9th Cir. Sept. 24, 2012) (holding that the trial court erred when it conducted a clear error review of the master's findings of facts and conclusions of law rather than de novo review).

City of New York v. Mickalis Pawn Shop, LLC, 645 F.3d 114 (2d Cir. 2011) (holding that if special master makes significant decisions without careful review by trial judge, judicial authority is effectively delegated to official who has not been appointed pursuant to Article III of Federal Constitution).

In re Bayside Prison Litig., 419 Fed. App'x 301 (3rd Cir. 2011) (holding that under special master agreement, all findings of fact by special master are binding; special master's report stands).

John B. v. Goetz, 626 F.3d 356 (6th Cir. 2011) (discussing claim that master commissioned had ex parte communications with plaintiff).

Visteon Global Techs., Inc. v. Garmin Int'l, Inc., No. 10-cv-10578, 2012 U.S. Dist. LEXIS 147448 (E.D. Mich. Oct. 12, 2012) (objecting to special master's claim construction report).

In re TFT-LCD (Flat Panel) Anti-Trust Litigation, Nos. M 07-1827 SI, C 10-1064 SI, 2012 WL 4858998 (N.D. Cal. Oct. 11, 2012) (finding the master did not err in ordering deposition of person reasonably involved in the litigation).

Wells Fargo & Co. v. United States, No. 09-CV-2764-PJS-TNL, 2012 U.S. Dist. LEXIS 113986 (D. Minn. Aug. 10, 2012) (affirming special master's denial of party's motion for summary judgment).

A.R. Arena Products, Inc. v. Grayling Indus., Inc., No. 5:11CV01911, 2012 WL 2953193 (N.D. Ohio July 19, 2012) (granting plaintiff's request to reallocate costs of special master to defendant because defendant was primarily responsible for involvement of the special master and because defendant had been warned regarding its tactics in discovery).

Orr v. Reiderer, No. 10-1303-CM, 2012 U.S. Dist. LEXIS 91759 (D. Kan. July 3, 2012) (granting summary judgment to defendant, a special master).

U.S. ex rel. Anti-Discrimination Ctr. of Metro N.Y., Inc. v. Westchester Cnty., N.Y., No. 06 Civ. 2860, 2012 WL 917367 (S.D.N.Y. Mar. 16, 2012) (holding that special master erred in its conclusion regarding oversight and implementation of settlement, and was therefore permitted to reexamine the issue).

Grant St. Grp., Inc. v. Realauction.com, LLC, Civ. A. No. 9-1407, 2012 U.S. Dist. LEXIS 10089 (W.D. Pa. Jan. 27, 2012) (adopting the special master's report to the extent it found de-designation is not appropriate, and not adopting the special master's recommendation for leave to be granted for the disclosure of certain documents).

Noah Sys. v. Intuit Inc., No. 10-CV-1420, 2011 U.S. Dist. LEXIS 140311 (W.D. Pa. Dec. 7, 2011) (adopting the special master's proposed construction of "means for transferring funds from said first entity to said other entities" without change).

Ammons v. McNeil, No. 4:08-cv-00208-MP-GRJ, 2011 U.S. Dist. LEXIS 27470 (N.D. Fla., Mar. 15, 2011) (agreeing with the magistrate judge that petitioner never identified to trial counsel the potential witnesses he now claims should have been interviewed).

McManus v. City of Gainesville, No. 1:08-cv-00110-MP-GRJ, 2011 WL 240816 (N.D. Fla. Jan. 24, 2011). (agreeing with magistrate judge that plaintiff claims are subject to dismissal for several reasons).

In re Chevron Corp., 753 F. Supp. 2d 536 (D. Md. 2010) (discussing party's challenge to special master appointed to assess global damages caused by oil and party's request for discovery, in light of allegations that special master report was ghost written by consultants hired by the plaintiffs and that special master met with plaintiffs' counsel and plaintiffs' consultant prior to his appointment as special master).

Copeland v. Astrue, No. 10-4144-JWL, 2010 U.S. Dist. LEXIS 126386 (D. Kan. Nov. 30, 2010) (reviewing of commissioner's decision on Social Security benefits).

Easy Fly S.A.L. v. Aventura Aviation, Inc., No. 10-60247-CIV-LENARD/TURNOFF, 2010 U.S. Dist. LEXIS 126386 (D. Kan. Nov. 30, 2010) (reviewing commissioner's decision on Social Security benefits).

In re Bayside Prison Litig., Civ. No. 08-5149, 2010 WL 4807049 (D.N.J. Nov. 16, 2010) (holding that under special master agreement, all findings of fact by special master are binding; special master's report stands).

Montez v. Ritter, No. 92-CV-870-JLK, 2010 U.S. Dist. LEXIS 140354 (D. Colo. Oct. 22, 2010) (considering motion filed by special master requesting further guidance regarding his jurisdiction over certain matters at issue).