

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 22-cv-00164-RMR-NRN

ERNEST JOSEPH TIBBELS,

Plaintiff,

v.

MATTHEW MILLER,  
CATHRINE L. ROWE,  
TYLER DALTON,  
NICHOLAS WURTZ, and  
REGINA MARINELLI,

Defendants.

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APPOINTMENT ORDER<sup>1</sup>

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It is hereby ORDERED that Plaintiff's Motion for Appointment of Counsel (ECF No. 64), referred to this Court by Judge Regina M. Rodriguez on June 25, 2024 (ECF No. 65), is GRANTED.

In accordance with D.C.COLO.LAttyR 15 of the U.S. District Court's Local Rules, the Court hereby determines that Plaintiff Ernest Joseph Tibbels merits appointment of

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<sup>1</sup> Rule 72(a) of the Federal Rules of Civil Procedure provides that when 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 issue a written order stating the decision. Within fourteen (14) days after service of a copy of this Minute Order, any party may serve and file written objections with the Clerk of the United States District Court for the District of Colorado. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(a). Failure to make any such objection will result in a waiver of the right to appeal the non-dispositive order. See *Sinclair Wyo. Ref. Co. v. A & B Builders, Ltd.* 989 F.3d 747, 782 (10th Cir. 2021) (firm waiver rule applies to non-dispositive orders); *but see Morales-Fernandez v. INS*, 418 F.3d 1116, 1119, 1122 (10th Cir. 2005) (firm waiver rule does not apply when the interests of justice require review, such as when a "pro se litigant has not been informed of the time period for objecting and the consequences of failing to object").

counsel drawn from the Civil Pro Bono Panel. The Court is satisfied that the following factors and considerations, as set forth in D.C.COLO.LAttyR 15(f)(1)(B) have been met:

- 1) the nature and complexity of the action;
- 2) the potential merit of the claims or defenses of the unrepresented party;
- 3) the inability of the unrepresented party to retain an attorney by other means; and
- 4) the degree to which the interests of justice, including the benefits to the court, will be served by appointment of counsel.

Accordingly, it is further ORDERED that pursuant to D.C.COLO.LAttyR 15(f)(2), the Clerk shall select, notify, and appoint counsel to represent the unrepresented party in this civil matter. The Plaintiff is advised that the Clerk will select counsel from the Panel; however, there is no guarantee that Panel members will undertake representation in every case. The Court cautions Plaintiff that he remains responsible for all scheduled matters, including hearings, depositions, motions and trial.

Dated: July 26, 2024  
Denver, Colorado

  
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N. Reid Neureiter  
United States Magistrate Judge