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Page 1

Not Reported in F.Supp., 1994 WL 411809 (D.N.J.)
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Briefs and Other Related Documents
Resolution Trust Corp. v.
Castelletti, D.N.J., 1994. Only the Westlaw citation is
currently available.

United States District Court, D. New Jersey.
RESOLUTION TRUST CORP.

v.
CASTELLETT, et al.
Civ. A. No. 92-4635.

Aug. 2, 1994.

David A. Mazie, Nagel & Rice, Livingston, NJ.
Brian Barrett, New York City.
WOLIN, District Judge.

*1 This matter is before the Court on the appeal of plaintiff Resolution Trust Corporation ("RTC") from an order of Magistrate Judge Pisano, dated June 8, 1993 ("June 8 Order"), denying RTC's motion to enforce its *subpoena duces tecum* on the District Attorney of the State and County of New York ("District Attorney"). RTC asks the Court to reverse Magistrate Judge Pisano's ruling and to compel the District Attorney to produce the documents requested under the subpoena. There is no dispute over the facts giving rise to the pending appeal. Therefore, the Court will forego a detailed summary of the relevant events. An ample description can be found in Magistrate Judge Pisano's opinion dated June 8, 1994 ("June 8 Opinion").

On December 14, 1993, Magistrate Judge Pisano refused to order the production of documents assembled by the District Attorney during the investigation of a criminal matter in New York involving certain of the defendants in this civil action. At that time, RTC had a motion pending before the New York court to unseal materials submitted to the New York grand jury. The criminal action had been terminated on May 20, 1993, and the materials had been placed under seal

ninety days later pursuant to section 160.50 of the New York Criminal Procedure Law ("section 160.50"), which requires the sealing of records in criminal matters terminated in favor of an accused individual. Magistrate Judge Pisano stayed his ruling on RTC's motion to enforce its subpoena pending the outcome of the motion before the state court.

On January 4, 1994, New York State Supreme Court Justice John A.K. Bradley concluded that the materials should remain under seal pursuant to section 160.50, rather than under section 190.25(4)(a), which concerns disclosure of documents relating to grand jury proceedings. Justice Bradley refused to unseal the record, notwithstanding RTC's "compelling and particularized" need for the documents in the pending litigation.

RTC did not appeal Justice Bradley's decision, but instead returned to Magistrate Judge Pisano to renew its motion to enforce the subpoena, which was subsequently denied. Magistrate Judge Pisano concluded that the federal court was required to give Justice Bradley's determination full faith and credit (28 U.S.C. § 1738). On the pending appeal, RTC argues that Magistrate Judge Pisano's decision was contrary to federal law and has allowed the New York state court to decide a discovery question which is solely within the discretion of this Court utilizing federal law.

The Federal Magistrates Act and Local Rule 40 of this district provide that the court can refer certain non-dispositive matters to the magistrate for judgment. A magistrate's ruling on non-dispositive motions will only be set aside if it is found to be clearly erroneous or contrary to law. *Cipollone v. Liggett Group, Inc.*, 785 F.2d 1108, 1113 (3d Cir.1986), cert. denied, 484 U.S. 976, 108 S.Ct. 487, (1987) (citing 28 U.S.C. § 636(b)(1)(A)); see also Fed.R.Civ.P. 72(a); Rule 40 D(4) of the General Rules for the U.S.Dist.Ct. for the Dist. of

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Not Reported in F.Supp.

Page 2

Not Reported in F.Supp., 1994 WL 411809 (D.N.J.)
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N.J. A magistrate judge's finding is clearly erroneous "when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *United States v. United States Gypsum Co.*, 333 U.S. 364, 395, 68 S.Ct. 525, 542 (1948). In addition, when a magistrate judge's determination involves the exercise of the magistrate judge's discretion, it is entitled to great deference and is reversible only when that discretion has been abused. See *Schroeder v. Boeing Commercial Airplane Co.*, 123 F.R.D. 166 (D.N.J.1988).

*2 Having reviewed the parties submissions and the June 8 Opinion, the Court is satisfied that Magistrate Judge Pisano's decision was not contrary to the relevant federal law. RTC's motion to enforce its subpoena raised issues of discovery and federalism that are relatively uncharted in case law. The parties and Magistrate Pisano focussed on analogous situations involving the production of materials from state grand jury investigations. In the June 8 Opinion, Magistrate Judge Pisano carefully distinguished the instant case from the grand jury cases as a whole and from those particular grand jury cases in which a federal court ordered the release of the state grand jury materials.

Given the governing standard of review, the dearth of case law on this question and Magistrate Judge Pisano's reasoned and thorough analysis of the facts and law, the Court concludes that Magistrate Judge Pisano's decision to deny RTC's motion to enforce its subpoena was not clearly erroneous or contrary to federal law. The Court will affirm the June 8 Order.

An appropriate order is attached.

D.N.J., 1994.
Resolution Trust Corp. v. Castellet
Not Reported in F.Supp., 1994 WL 411809 (D.N.J.)

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• 2:92CV04635 (Docket) (Nov. 06, 1992)

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