

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

JANET JENKINS	:	
	:	
v.	:	Case No. 2:12-cv-184
	:	
KENNETH L. MILLER ET. AL.,	:	
	:	
Defendants.	:	

OPINION AND ORDER: MOTION TO CLARIFY AND/OR MODIFY THE DISCOVERY SCHEDULE, MOTION TO STAY SUMMARY JUDGMENT DEADLINE

(ECF 401, ECF 406)

Plaintiff Janet Jenkins, for herself and as next friend of her daughter Isabella Miller-Jenkins, has brought suit against several individuals and organizations, alleging that they kidnapped and conspired to kidnap Isabella. Plaintiffs assert claims of commission of, and conspiracy to, commit an intentional tort of kidnapping and conspiracy to violate civil rights under 42 U.S.C. § 1985(3).

Plaintiffs have filed a motion to clarify the discovery schedule in this case, submitting that this Court’s order to extend the discovery timeline on June 26, 2019 was ambiguous as to whether it was granting a six week or six-month extension. Plaintiffs also seek to extend the close of discovery to March 2, 2020, in accordance with a six-month extension. Defendants oppose Plaintiffs’ motion to modify the discovery schedule, and have also filed a motion to stay the summary judgment deadline

pending a decision on Plaintiffs' motion. For the following reasons, Plaintiffs' motion to clarify the discovery schedule is **granted**, Plaintiffs' motion to modify the discovery schedule is **granted** in part and **denied** in part, and Defendants' motion to stay the summary judgment deadline pending this order is **granted**. The Court orders Plaintiffs to **submit a modified discovery schedule** reflecting these changes within ten days from the date of this order.

BACKGROUND

On August 16, 2018, Plaintiffs filed a proposed Discovery Schedule / Order, which this court approved and ordered. ECF 329. On April 29, 2019, Plaintiffs filed a motion to modify the discovery schedule to extend the August 29, 2019 deadline to complete discovery by six weeks, which would have resulted in a discovery deadline of October 10, 2019. ECF 348. In Defendants' responsive briefings, however, Defendants mentioned that the parties had separately agreed that a six-month extension of the discovery schedule (creating a deadline of March 2, 2020) would be appropriate. ECF 349. On June 26, 2019, this Court granted Plaintiffs' motion to modify by text-only order. ECF 355.

Plaintiffs now submit that the Court's order on June 26th was unclear as to whether the modified discovery schedule was to be extended by six weeks or six months. Plaintiffs further argue

that, even if this Court had granted only a six-week extension, good cause exists to extend discovery anew to a March 2 deadline.

DISCUSSION

This Court's order on June 26th, 2019 extended the discovery schedule in this case by six weeks to October 10, 2019. While the Court did grant Plaintiffs' motion by text-only order, there should have been little ambiguity as to the effect of this order. Indeed, the Court granted Plaintiffs' motion to modify the discovery schedule, which explicitly asked for a six-week extension. Moreover, Plaintiffs are only now raising this issue of alleged ambiguity in November of 2019, a month after the six-week extension deadline, and nearly four and a half months after the Court's order. Such a lengthy delay suggests that any genuine confusion that arose out of the June 26th text-only order was likely minimal.

Plaintiffs further contend that, despite the October 10th discovery deadline, the Court should modify the discovery schedule once again for the six-month deadline of March 2, 2020. They argue that good cause exists for such an extension in light of the Court's recently granted motions to compel discovery, which require additional time for production.

Local Rule 26(a)(7) provides that . . . “[if] additional discovery time is required due to case complexity or other extraordinary circumstances, counsel may move for an extension of time for good cause. Absent exceptional circumstances, requests must be made before the discovery deadline expires.” Here, Plaintiffs have made a showing of exceptional circumstances that would allow them to move for an extension for good cause at this point in the case. This court just recently granted both parties’ motions to compel additional discovery, which will require additional time to properly produce and process materials. In the interest of the swift resolution of this complex matter, however, the discovery timeline shall be extended only four months from the initial date, with a close date of January 2, 2020. Plaintiffs’ motion to modify the discovery schedule is thus **granted** in part and **denied** in part. Finally, in the interest of allowing all parties enough time to prepare briefing in light of additional motions, Defendants’ motion to stay the summary judgment deadline until two weeks after this decision (Dec 2, 2019) is **granted**. The Court further orders Plaintiffs to **submit a modified discovery schedule** reflecting these changes within ten days of this order.

CONCLUSION

For the aforementioned reasons, Plaintiffs' motion to clarify the discovery schedule is **granted**, Plaintiffs' motion to modify the discovery schedule is **granted** in part and **denied** in part, and Defendants' motion to stay the summary judgment deadline pending this order is **granted**.

DATED at Burlington, in the District of Vermont, this 18th of November, 2019.

/s/ William K. Sessions III
William K. Sessions III
District Court Judge