

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

JANET JENKINS, <i>et al.</i> ,	)	
Plaintiffs	)	
	)	
v.	)	Docket No. 2:12-cv-184
	)	
KENNETH L. MILLER, <i>et al.</i> ,	)	
Defendants	)	

DEFENDANTS' UNOPPOSED MOTION TO RECONSIDER  
THE COURT'S OPINION AND ORDER REGARDING THE  
MOTION TO STAY SUMMARY JUDGMENT DEADLINE (DOC. 411)

Defendants Philip Zodhiates, Response Unlimited, Inc. ("Response Unlimited") and Victoria Hyden, by their attorneys Gravel & Shea PC, hereby move this Court for reconsideration of its Order on the Emergency Motion for a Stay of the Summary Judgment Deadline. *See* Doc. 411 (ruling on Doc. 406). Plaintiffs do not oppose this motion.

The Order sets December 2, 2019 as the deadline for filing of summary judgment motions, a month *prior* to January 2, 2020, the new deadline for the close of discovery. This schedule reverses the sequence to which the parties earlier agreed and which the Court ordered: filing of summary judgment motions following the close of discovery.

The Emergency Motion requested that the Court stay the summary judgment deadline until two weeks after the Court issues its decision on Plaintiffs' motion (Doc. 401) *should the Court deny the extension, or if the deadlines are extended*, until the new deadline. Doc. 406 at 2. In the Opinion and Order issued November 18, 2019 (Doc. 411), the Court granted a four-month extension of the discovery schedule from its original closing date, setting the close of discovery as January 2, 2020. Doc. 411 at 4.

The original discovery schedule dated August 16, 2018, to which all parties agreed and which the Court ordered, directed that summary judgment motions “shall be filed on or before **six weeks after close of all discovery.**” Doc. 320 (emphasis in original) (ordered at Doc. 329). When the Court granted Plaintiffs’ motion for a six-week extension of the discovery schedule, Doc. 355, the summary judgment deadline was pushed six weeks out to November 21, 2019, with discovery closing on October 10, 2019. The Order issued November 18, 2019 changes the sequence by requiring summary judgment to be filed a month prior to the close of discovery. Were the original sequence followed, summary judgment would follow the close of discovery as is usually the case. To proceed otherwise would give Plaintiffs an advantage.

Accordingly, Philip Zodhiates, Response Unlimited and Victoria Hyden respectfully request that the Court reconsider its ruling on the Emergency Motion for Stay of the Summary Judgment deadline and order that the sequencing of discovery and summary judgment originally ordered by the Court be continued such that summary judgment motions will be filed after January 2, 2020. *See* Docs. 320 and 329.

Plaintiffs do not oppose this motion.

Dated: Burlington, Vermont  
November 20, 2019

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CERTIFICATE OF SERVICE

I, Robert B. Hemley, Esq., attorney for Defendants Philip Zodhiates, Victoria Hyden and Response Unlimited, Inc., certify that, on November 20, 2019, I caused Defendants' Unopposed Motion to Reconsider the Court's Opinion and Order Regarding the Motion to Stay Summary Judgment Deadline (Doc. 411) to be served through the CM/ECF system and by e-mail and in some instances by first-class mail, on the following individuals:

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