

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

JANET JENKINS, et al.,

Plaintiffs,

v.

KENNETH L. MILLER, et al.,

Defendants.

No. 2:12-cv-184-WKS

**PLAINTIFFS' MOTION TO STAY NOVEMBER 21, 2019 DEADLINE TO SERVE ALL
INTERROGATORIES AND REQUESTS FOR PRODUCTION PENDING [418]
PLAINTIFFS' EMERGENCY MOTION FOR RECONSIDERATION OF [411] THE
COURT'S NOVEMBER 18, 2019 ORDER GRANTING IN PART AND DENYING IN
PART PLAINTIFFS' MOTION TO MODIFY THE DISCOVERY SCHEDULE/ORDER**

Plaintiffs Janet Jenkins and Isabella Miller-Jenkins, through undersigned counsel, move to stay the November 21, 2019 deadline to serve all interrogatories and requests for production pending the Court's decision on Plaintiffs' emergency motion for reconsideration, ECF 418, of the Court's order extending discovery only to January 2, 2020, ECF 411.¹ Good cause exists to stay that deadline:

1. For all the reasons set forth in Plaintiffs' motion to clarify the Discovery Schedule/Order, ECF 401, and their motion for reconsideration of the Court's disposition of that motion, ECF 411, until November 18, 2019, Plaintiffs believed in good faith that discovery would close on March 2, 2020, and that the deadline to serve all interrogatories and requests for production would be six weeks earlier—January 20, 2020.

¹ Defendants Philip Zodiates, Victoria Hyden, Response Unlimited, Inc., Liberty Counsel, Inc., Rena Lindevaldsen, and Linda Wall oppose this motion. The remaining Defendants have not responded.

2. On November 18, 2019, the Court clarified that discovery had instead closed on October 10, 2019, and extended discovery to January 2, 2020.

3. Under the terms of the Discovery Schedule/Order, *see* ECF 320, 329, the deadline to serve all interrogatories and requests for production is now November 21, 2019—just three days after the Court confirmed that discovery had closed months earlier than Plaintiffs anticipated. Plaintiffs seek this stay before that deadline expires.

4. On November 21, 2019, Defendant Linda Wall served a second set of interrogatories and requests for production. *See* Disc. Certificate, ECF 419.

5. Plaintiffs have moved for reconsideration of the Court's short extension of discovery to January 2, 2020, because (1) the Court clearly erred by inferring from Plaintiffs' just-recent request for clarification of the discovery deadline that they likely were not under the genuine misunderstanding that the Court had granted a six-month extension; and (2) the Court's extension of discovery only to January 2, 2020, creates a serious risk of manifest injustice to Plaintiffs by severely prejudicing their ability to collect the evidence necessary to prove their case.

6. Plaintiffs are immediately prejudiced by today's unexpected deadline to serve interrogatories and requests for production, two important tools of discovery.

7. The Court granted Defendants Victoria Hyden and Response Unlimited, Inc.'s motion to stay the summary judgment deadline pending Plaintiffs' motion for clarification of the Discovery Schedule/Order. *See* Op. & Order at 4, ECF 411.

For these reasons, Plaintiffs' motion to stay the November 21, 2019 deadline to serve all interrogatories and requests for production pending the Court's decision on Plaintiffs' emergency

motion for reconsideration, ECF 418, of the Court's order extending discovery only to January 2, 2020, ECF 411, should be granted.

November 21, 2019

Respectfully submitted.

/s/ Frank H. Langrock

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CERTIFICATE OF SERVICE

I hereby certify that, on this date, the foregoing document was served on the following counsel of record through the Court's CM/ECF system:

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November 21, 2019

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