

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

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

**OPINION AND ORDER: DEFENDANTS' MOTION FOR RECONSIDERATION OF THE
COURTS' OPINION TO STAY THE SUMMARY JUDGMENT DEADLINE**

(ECF 413)

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).

Defendants have filed an unopposed motion for reconsideration of the court's opinion regarding their recent motion to stay the summary judgment deadline. See ECF 411. For the following reasons, Defendants' motion for reconsideration is **granted**. Summary judgment motions shall be filed on or before April 13, 2020.

STANDARD OF REVIEW

A court may consider a motion for reconsideration filed under Federal Rule of Civil Procedure 59(e). *Assoc. for Retarded Citizens of Conn., Inc. v. Thorne*, 68 F.3d 547, 553 (2d Cir. 1995). Motions for reconsideration should not be used to repackage arguments previously rejected. *Robinson v. Disney Online*, 152 F.Supp.3d 176, 185 (S.D.N.Y. 2015). Rule 59(e) is not intended to provide "a second bite at the apple." *Analytical Surveys, Inc. v. Tonga Partners, L.P.*, 684 F.3d 36, 53 (2d Cir. 2012). A motion for reconsideration under Rule 59(e) is properly brought under one of four theories: the judgment depends upon a manifest error of fact or law, there is newly discovered or previously unavailable evidence, it is necessary to prevent a manifest injustice, or there has been an intervening change in controlling law. Charles Alan Wright, et al., 11 Federal Practice & Procedure § 2810.1 (3d ed. 2012).

DISCUSSION

On November 7, 2019, Plaintiffs filed a motion to clarify and / or extend the discovery schedule in this case. Defendants opposed Plaintiffs' motion, and also filed a motion to stay the summary judgment deadline pending a decision on Plaintiffs' motion. Defendants' motion sought either a stay of two weeks after the Court's decision on Plaintiffs' motion if the Court

were to deny said motion, or, if the deadlines were extended, a stay until after the new deadline. ECF 406 at 2.

The Court misread Defendants' motion to stay the summary judgment deadline as only seeking an additional two weeks after the Court's decision. As such, on November 18, 2019, the Court granted in part Plaintiffs' motion to extend the discovery schedule by four months, to January 2, 2020. The Court also granted Defendants' motion to stay the summary judgment deadline, but mistakenly ordered that stay only for two weeks after the decision, instead of for six weeks after the new discovery deadline.

Following the original discovery schedule in this case, summary judgment motions are to be submitted to this court on or before six weeks after the close of discovery. ECF 320. Additionally, as of this Court's decision to grant Plaintiffs' motion for reconsideration of the Court's November 18 Order, the discovery deadline has been moved to March 2, 2020. As such, the new summary judgment deadline should properly fall six weeks after this date, on April 13, 2020, as explicated in the Court's Final Stipulated Discovery Schedule / Order. Defendants' motion for reconsideration of the courts' opinion to stay the summary judgment is **granted**.

CONCLUSION

For the following reasons, Defendants' motion for reconsideration is **granted**. Summary judgment motions shall be filed on or before April 13, 2020.

DATED at Burlington, in the District of Vermont, this 25th day of November, 2019.

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