

3. Movant now moves to amend those deadlines previously set by the Court for September 11, 2009, to set new deadlines for those matters (discovery, dispositive motions, and pretrial motions) and to maintain all other deadlines currently set.

ARGUMENT

4. The parties in this case have had since December 2008, to prepare and discover their cases.

5. By correspondence dated July 13, 2009, the undersigned reminded Plaintiffs' counsel of the September 11th deadlines in light of his possible confusion on the issue. *See attached.*

6. A good faith effort is being made to bring this case to a conclusion but the Plaintiffs need a brief extension of time to allow for the final two depositions requested by Plaintiffs and to set an orderly sequence of events.

7. It is Defendant's understanding that Plaintiffs are agreed to the cancellation of the September 11, 2009, deadlines in the current scheduling order but that they are requesting an undefined extension.

8. Plaintiffs previously proposed depositions of Hammerlein and Johnson in August but failed to take those depositions then and failed to set new dates within the discovery period.

9. For these reasons, Movant requests that the Court set new deadlines which will allow for agreed limited discovery of two depositions and allow for an orderly process, as follows:

September 25, 2009 Discovery must be completed by this date; limited to the exclusive purpose of taking the depositions of Ed Johnson and/or George Hammerlein, if desired.

October 2, 2009 Dispositive Motions to be filed by this date.

October 30, 2009 Responses to Dispositive Motions to be filed by this date.

WHEREFORE, PREMISES CONSIDERED, Movant respectfully requests that this Motion to Amend Scheduling Order be, in all respects, granted, and for such other and further relief which to this Court shall seem just and proper.

Respectfully submitted,

OF COUNSEL:

VINCE RYAN
County Attorney
Harris County, Texas

By /s/ F. Clinton Gambill, II
F. CLINTON GAMBILL, II
State Bar No. 07601700
Federal I.D. No. 3672
Sr. Assistant County Attorney
1019 Congress, 15th Floor
Houston, Texas 77002
(713) 755-4985
Fax No. (713) 755-8924

OF COUNSEL:

JOHN ODAM
State Bar No. 15192000
Federal I.D. No. 6944
Special Assistant County Attorney
1019 Congress, 15th Floor
Houston, Texas 77002
(713) 755-5069
Fax No. (713) 755-8924
ATTORNEYS FOR DEFENDANT

CERTIFICATE OF CONFERENCE

I hereby certify that on the 10th day of September, 2009, Chad Dunn, John Odam and Clinton Gambill discussed the deadlines set for September 11, 2009, and their mutual desire to terminate those deadlines. The parties could not agree on the specifics of new deadlines and acknowledged that they would each file their own respective motions to present their positions to the Court and ask for an expedited ruling.

F. Clinton Gambill, II
F. CLINTON GAMBILL, II

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of September, 2009, a true and correct copy of the foregoing pleading was served in accordance with the Federal Rules of Civil Procedure:

Chad W. Dunn
K. Scott Brazil
Brazil & Dunn
4201 FM 1960 West, Suite 530
Houston, TX 77068

Mike Prather
Preis & Roy
Weslayan Tower
24 Greenway Plaza, Suite 2050
Houston, TX 77046

John Odam
Special Assistant County Attorney

F. Clinton Gambill, II
F. CLINTON GAMBILL, II

October 2, 2009 Dispositive Motions to be filed by this date.

October 30, 2009 Responses to Dispositive Motions to be filed by this date.

Date: _____

Judge Gray H. Miller