

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

ROBERT JOHNSON, as)
Personal Representative)
for the Estate of)
Irene Johnson,)
)
Plaintiff,)
)
v.)
)
WILLIE EVA BALDWIN,)
)
Defendant.)

CIVIL ACTION NO.
2:07cv1068-MHT
(WO)

OPINION AND ORDER

Based on the representations made by counsel for both parties in the hearing on August 20, 2008, it is ORDERED that plaintiff Robert Johnson's motion for leave to amend his second amended complaint (Doc. No. 50) is granted.

The court is satisfied that plaintiff Robert Johnson has shown good cause under Fed. R. Civ. P. 16(b) for his failure to amend the complaint prior to the March 24, 2008, deadline of the uniform scheduling order. Furthermore, the Court finds pursuant to Rule 15(a) that

the interests of justice are served by the amendment given that the amendment goes to the heart of Johnson's case, that there is admittedly no prejudice to defendant Willa Eva Baldwin, and that the pretrial conference is not scheduled until October 27, 2008. See Sosa v. Airprint Sys., 133 F.3d 1417, 1419 (11th Cir. 1998) (discussing two-step process by which good cause is first shown under Rule 16 before the requirements of justice are considered under Rule 15).

The court also finds, however, that, in waiting until July 25, 2008, to file this amendment, Johnson has been dilatory. As a result, the court has proposed--and counsel for Johnson accepted--the sanction of reduced costs. Should Johnson prevail, recoverable costs will be reduced by one-third.

DONE, this the 3rd day of November, 2008.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE