

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

NASRIN FATEMI

PLAINTIFF

v.

Case No. 4:11-cv-458-DPM

**CHARLES WHITE, in his official
capacity; JAMES CLARDY, in his
individual and official capacities;
DEBRA FISER, in her individual
and official capacities; JOHN DAY,
in his individual and official capacities;
UNIVERSITY OF ARKANSAS FOR
MEDICAL SCIENCES; and
UNIVERSITY OF ARKANSAS SYSTEM**

DEFENDANTS

ORDER

The Court's 30 October 2012 text Order allowing the amended answer, *Document No. 57*, is therefore vacated. With the benefit of full briefing and oral argument, the Court concludes that Defendants have shown good cause for their second amended answer, *Document No. 58*, to stand. Fatemi's motion to reconsider, *Document No. 59*, is therefore denied on the merits; Defendants' motion for leave to file the amendment, *Document No. 56*, is granted. The Court stated its reasons on the record at the end of the hearing.

Discovery, limited to the after-acquired evidence defense, is reopened for a reasonable period. The parties' joint report on a proposed schedule for accomplishing this additional discovery is due by 10 December 2012. Defendants will bear the costs of reopening any deposition taken between 1 July 2012 and 23 October 2012 to explore the after-acquired defense. Defendants' motion for partial summary judgment based solely on that defense, *Document No. 76*, is denied without prejudice to renewal after the additional discovery is done. Defendants will, as they've pledged, make all witnesses within their control with knowledge about the defense available as soon as possible. The Court, and the parties, want and intend to hold the February trial date. But if that turns out not to be practicable, then the Court will, at Dr. Fatemi's election, grant a short continuance to a mutually convenient date sooner rather than later. The current scheduling order remains in place. Briefing on the main motion for summary judgment, *Document No. 73*, and on the motion for sanctions, *Document No. 69*, will stay on track.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

4 December 2012