

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

KRISTIN KUELBS, *by her*
Guardian KIM HILL

PLAINTIFF

vs.

Civil No. 6:09-cv-6097

DONALD HILL, and
EDWARDENA HILL, *et al*

DEFENDANTS

ORDER

BEFORE the Court is the Motion to Stay Depositions filed herein by Defendants Donald Hill and Edwardena Hill. ECF No. 177. The Plaintiff has responded and objects to a stay. ECF No. 178. This motion has been referred to the undersigned for decision. The Court has reviewed the Motion and Response, and finds as follows:

Plaintiff has scheduled the depositions of three witnesses for November 15 and 16, 2010. On November 2, 2010, counsel for the Plaintiff and Defendant conferred informally with the undersigned regarding certain discovery issues, including the scheduling of the depositions of Stephen Friedman, Malia Malone and JoAnne Martin. At that time the discovery deadline in this case was December 8, 2010. Defendants did not oppose the depositions of these three witnesses, but rather wanted to reschedule them to allow Defendant to obtain all of the written material (which has been requested but not received) needed to fully prepare for the depositions, thus eliminating the need for multiple depositions of the same witnesses. The discovery deadline has now been extended to April 18, 2011. ECF No. 176.

Plaintiff opposes the Motion to Stay Depositions stating Plaintiff has tried to schedule these depositions for several months. Plaintiff states that she previously had the depositions scheduled and same were quashed by this Court at the request of the Defendants. Plaintiff states none of the three witnesses are medical experts and none of them will give testimony regarding medical issues. Thus, Plaintiff asserts there is no need for Defendants to have medical records in order to be able to properly cross examine these witnesses.

As the Court indicated on November 2, 2010, the scheduling of discovery is a matter best determined by the parties themselves. In this case the proposed depositions have been scheduled on two occasions and on both occasions Defendants objected to the timing of the depositions. Defendants assert they have outstanding document requests to third parties regarding medical records that may be relevant to the testimony of at least two of these three witnesses. If Defendants obtain such records and if those records contain information not available at the time of the scheduled depositions, Defendants will be allowed to re-depose these witnesses regarding any new information. Because of the new extended discovery deadline in this matter, Defendant will not be prejudiced by the denial of the Motion to Stay Depositions.

IT IS THEREFORE ORDERED Plaintiff's Motion to Stay Deposition (ECF No. 177) is **DENIED**.

DATED this 12th day of November, 2010.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
U.S. MAGISTRATE JUDGE