

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

STEPHEN MATTIX,

Plaintiff,

vs.

CASE NO. 3:12-cv-475-J-34TEM

THE PANTRY, INC.,

Defendant.

ORDER

This case came before the Court on August 17, 2012 for a telephonic hearing¹ on Plaintiff's Motion to Compel Compliance with Court Order (Doc. #10, Motion to Compel) and Defendant's Motion for Protective Order (Doc. #11). The Court heard argument from counsel of record and made its rulings from the bench. This order enters for purposes of clarity so there can be no misunderstanding between the parties.

As stated during the hearing, Plaintiff's Motion to Compel Compliance with Court Order (Doc. #10) is **DENIED**. Defendant has set forth substantial justification for noncompliance with the request set forth in the Motion to Compel.

Defendant's Motion for Protective Order (Doc. #11) is **GRANTED TO THE EXTENT** the Court will construe the motion as a request to modify the ADA Scheduling Order (Doc. #4) to enlarge the time period within which Defendant shall permit Plaintiff's counsel and Plaintiff's expert reasonable access to inspect that portion of the Defendant's facility which Plaintiff claims to be non-compliant. On the basis Defendant's counsel represents re-

¹The non-transcribed recording of the hearing is hereby incorporated by reference. The parties may contact the Courtroom Deputy of the undersigned if a transcript of the hearing is desired.

mediation is currently underway at the allegedly offending facility, Kangaroo Express Store #6295, 1091 Blanding Blvd., Orange Park, FL 32065, and is scheduled to be completed in September, the Court finds an inspection while re-mediation is occurring would serve no purpose. Therefore, the Court finds good cause to modify the scheduling order to permit inspection by Plaintiff's expert be delayed until the first week of October 2012. **Prior to September 30, 2012, counsel shall meet and confer and arrange a mutually agreeable date and time for the inspection by Plaintiff's expert during the first week of October 2012.** To the extent Defendant's Motion for Protective Order seeks other relief, the motion is **DENIED**.

DONE AND ORDERED at Jacksonville, Florida this 20th day of August, 2012.



THOMAS E. MORRIS
United States Magistrate Judge

Copies to:
Counsel of record
The Hon. James R. Klindt
The Hon. Joel B. Toomey
The Hon. Monte C. Richardson