

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-CV-61682-COHN/Seltzer

LOIGIS ETIENNE, JEAN PATRICK  
MOISE, and LIROY GUERRIER,

Plaintiffs,

vs.

HANG TOUGH, INC., d/b/a  
POMPANO HONDA, a Florida  
corporationDefendant.  

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**ORDER GRANTING MOTION TO STAY**

**THIS CAUSE** is before the Court upon Plaintiff Liroy Guerrier's Motion to Stay His Case and to Have a Trial in this Cause in January, 2010 With All Three Plaintiffs Participating in the Trial at that Time [DE 42]. The Court has carefully considered the Motion and Defendant's Amended Response [DE 44], and is otherwise duly advised in the premises.<sup>1</sup>

## I. BACKGROUND

Plaintiff Liroy Guerrier ("Plaintiff"), along with Loigis Etienne and Jean Patrick Moise, commenced this action by filing a Complaint [DE 1] on October 20, 2008. Plaintiffs alleges that Defendant Hang Tough, Inc., d/b/a Pompano Honda ("Defendant") engaged in a pattern of unlawful discriminatory conduct and harassment

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<sup>1</sup> Plaintiff has failed to file a Reply and the deadline for filing a Reply passed on September 8, 2009.

based on their race, ancestry and/or ethnicity in violation of 42 U.S.C. §1981. The parties have engaged in some discovery, though Plaintiff Liroy Guerrier has not complied with all discovery requests.

The present motion is based upon Plaintiff Guerrier's status as an active member of the armed forces of the United States. Plaintiff Guerrier invokes his rights under the Soldiers and Sailors Civil Relief Act, which affords an active serviceman the right to stay a civil action while he or she is in active service. There is no dispute here that Plaintiff has now submitted sufficient documentation that Plaintiff Guerrier is currently serving in the United States military overseas, with a scheduled return to the United States in mid-December. Exhibit A to Plaintiffs' Motion.

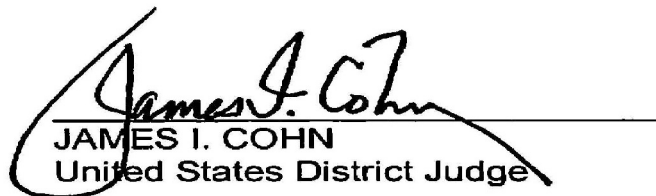
Plaintiffs seek to delay the entire trial until Mr. Guerrier's return to the United States. Defendant does not oppose this relief, as long as deadlines are imposed for Mr. Guerrier to respond to discovery requests and sit for his deposition prior to trial.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. Plaintiff Liroy Guerrier's Motion to Stay His Case and to Have a Trial in this Cause in January, 2010 With All Three Plaintiffs Participating in the Trial at that Time [DE 42] is hereby **GRANTED**;
2. Within seven days of Mr. Guerrier's return to the United States, counsel for Mr. Guerrier shall file a notice with the Court of indicating the date of his return, and including a statement as to how long he will remain in South Florida before his next deployment, if any;
3. Within 12 days of his return to South Florida, Plaintiff shall respond to all

- outstanding discovery requests of Defendant;
4. Within 15 days of his return to South Florida, Plaintiff shall sit for his deposition at a time and place to be agreed upon by counsel of record in this case, however, if no agreement is reached between counsel within three business days of the filing of Plaintiff's Notice of Return, Defendant has leave to set the deposition for a date and time within five to seven business days of the conclusion of the three day period;
  5. Any motions in limine shall be due by December 23, 2009, or within three business days of the completion of the deposition of Mr. Guerrier, whichever occurs last;
  6. The Joint Pretrial Stipulation shall be due by January 4, 2010;
  7. This case is reset for trial during the two week trial period commencing January 11, 2010, with Calendar Call reset for Thursday, January 7, 2009 at 9:00am. No other deadlines are extended by this Order.

**DONE AND ORDERED** in the Chambers of Fort Lauderdale, Broward County, Florida on this 15th day of September, 2009.

  
JAMES I. COHN  
United States District Judge

Copies provided to:

Counsel of Record