



**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 04-20701-CIV-HOEVELER

MARYLA MADURA,

Plaintiff,

v.

**CITY OF NORTH MIAMI BEACH,
ANTONIO MARCIANTE, individually,
and TONY SANCHEZ, individually,**

Defendants.

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ORDER REFERRING CASE TO MEDIATION

This Cause comes before this Court on a review of the file before the pre-trial conference scheduled for September 7, 2010. This case is scheduled to be tried, starting on September 13, 2010, as to the alleged use of excessive force by Defendant Marciante, the claim for emotional distress against Defendant Sanchez, and the state law claims of assault and battery against the City. Summary judgment in favor of Defendants has been entered as to all other claims.

On March 3, 2010, the Court entered an order scheduling this case to start trial on May 10, 2010. Counsel for both parties sought a four month continuance of the trial date in light of "extensive preparation time for both sides" and conflicts in counsel's calendars. Although this case had been pending for a long time, the Court granted the requested continuance, and rescheduled the trial for the period starting September 13, 2010, to accommodate counsel. Counsel now, again, claim to need a continuance and ask that this trial be delayed for another two months, despite their prior representations to the Court that this long pending case would be ready for trial in September 2010.

The Court also notes that several discovery disputes continue to arise. Plaintiff has filed a motion to compel-to which no response has yet been filed, and Defendants Marciante and Sanchez have filed motions for protective orders. The Court will rule on these motions as soon as reply briefs have been filed.


As to Defendants' previously filed motion (Dkt No. 137) to strike Plaintiff's Second Set of Interrogatories and Second Request for Production, the request is DENIED. Defendants' motion to strike (Dkt No. 136) Plaintiff's notice of filing depositions relating to the motion for reconsideration is DENIED.

Finally, Defendants seek an order compelling Plaintiff to participate in mediation. Although Plaintiff has not yet responded to the motion, the Court has determined that mediation at this stage of the proceedings - more than three years after a prior settlement conference, and almost eight years after the incident at issue - is in order. Thus,

THIS CAUSE is hereby referred to the Honorable William C. Turnoff for a mediation conference, to be scheduled at Magistrate Judge Turnoff's convenience, preferably no later than October 29, 2010.

Trial is re-scheduled and specially set to begin November 8, 2010. No further continuances will be granted. Pre-trial conference will be held at 10:00 a.m. on November 1, 2010.

DONE AND ORDERED in Chambers in Miami this 3rd day of September 2010.


WILLIAM M. HOEVELER
SENIOR UNITED STATES DISTRICT COURT JUDGE

Copies furnished:
Charles M. Baron
Darcee S. Siegel