

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
IN ADMIRALTY

CASE NO.: 06-61635-CIV-COOKE/BANDSTRA

THOMAS O'HAGAN and
FRANCISCO ARROYO,

Plaintiffs,

vs.

M&T MARINE GROUP, LLC d/b/a/
NORTHSIDE MARINE SALES, etc. et al.,

Defendants. _____/

**DEFENDANT'S UNOPPOSED MOTION TO EXTEND DEADLINE FOR FILING
DISPOSITIVE AND PRE-TRIAL MOTIONS**

COMES NOW, the Defendant, NORTHSIDE MARINE SALES, by and through its undersigned counsel, and moves this Court for an Order extending the deadline for filing dispositive and pre-trial motions, and in support thereof states as follows:

1. The Court's Trial Order [D.E. 24] requires all dispositive and other pretrial motions be filed, including motions to exclude or limit proposed expert testimony, by October 29, 2009.
2. However, the Plaintiff is not required to disclose its experts until November 5, 2009. Therefore, Defendant cannot properly determine whether it needs to file a motion to exclude or limit proposed expert testimony.
3. Additionally, Defendant is currently completing depositions of fact witnesses and parties which may lead to additional dispositive motions. All fact discovery must be completed

by November 12, 2009. Defendant cannot properly determine whether it needs to file any dispositive motions until the completion of discovery.

4. Because of the foregoing, including Defendant's inability to move to exclude expert testimony, if necessary, until after receipt of Plaintiff's expert disclosures, Defendant requests the deadline for filing dispositive pretrial motions, including motions to exclude or limit proposed expert testimony, be extended to November 16, 2009.
5. The proposed new deadline conforms with the Court's Order requiring a Joint Scheduling Report [D.E. 3] which mandates the deadline be at least 17 weeks before the trial date, which is March 15, 2010.

MEMORANDUM OF LAW

Federal Rule of Civil Procedure, Rule 6(b), in pertinent part provides that:

When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires. . .

(West 2007). This motion has been timely filed. This request is not meant to delay and will not prejudice the Plaintiff. Good cause exists because Defendant cannot determine whether dispositive motions, including motions to limit expert testimony, are necessary until receipt of Plaintiff's expert disclosures and completion of fact witness depositions. These will be completed prior to discovery cut-off, however, the current dispositive motion deadline is before that date.

The deadline for extending trial deadlines, including the date for filing dispositive motions, can be extended when good cause is shown. *Cerna v. Southern Waste, LLC*, 2008 U.S.

Dist. LEXIS 43537 (S.D. Fla. 2008). Defendant submits good cause has been shown and that the deadline for dispositive motions should be extended.

WHEREFORE, Defendant requests the deadline for filing dispositive and other pretrial motions, as well as motions to exclude or limit proposed expert testimony, be extended to November 16, 2009.

Certificate of Compliance with Local Rule 7.1.A.3

The undersigned hereby certifies that he conferred with Plaintiff's counsel in regard to the relief requested herein in an effort to resolve the issues and Plaintiff has advised he has no objection.

Respectfully submitted,

/s/ Andrew D. Craven

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was served via CM/ECF Electronic Transmission to David R. Canning, Esquire, Karcher Canning & Karcher, Attorneys for Plaintiffs, 888 S.E. 3rd Avenue, Ft. Lauderdale, Florida 33316 on this 28th day of October, 2009.

/s/ Andrew D. Craven
Andrew D. Craven