

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JULIE BRANDENBURG,

Plaintiff,

v.

**EARL L. HENDERSON TRUCKING,
CO., LLC, PREMIUM TRANSPORTATION
STAFFING, INC., and PREMIUM ENTERPRISES
INC.,**

Defendants.

No. 09-0558-DRH

ORDER

HERNDON, Chief Judge:

Pending before the Court is Plaintiff's Rule 56(f) motion for continuance of Court's ruling on Defendant Premium Transportation Staffing, Inc. and Premium Enterprises, Inc.'s motion to dismiss second Amended Complaint (Doc. 68). As of this date, Defendants have not responded to the motion. Based on the reasons stated in the motion, the Court **GRANTS** the motion. Moreover, as stated in Plaintiff's motion, the motion to dismiss contains matters outside the pleadings as to: 1) whether Plaintiff satisfied the Title VII requirement for filing against Premium Enterprises, Inc.; and 2) whether Premium Enterprises and Premium Transportation can be liable as "employers" within the meaning of the Title VII. Thus, pursuant to Federal Rule of Civil Procedure 12(d), the Court **CONVERTS** the motion to dismiss to a Federal Rule of Civil Procedure 56 motion for summary judgment based on these two issues. The Court **ALLOWS** Plaintiff up to and including March 22, 2010

to conduct discovery on these issues and **ALLOWS** Plaintiff up to and including April 9, 2010 to file a brief.

IT IS SO ORDERED.

Signed this 22nd day of February, 2010.

/s/ David R. Herndon

**Chief Judge
United States District Court**