

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION at LEXINGTON

CIVIL ACTION NO. 09-86-KSF

SHARON MARIE EVANS,

PLAINTIFF

v.

OPINION & ORDER

SIR PIZZA OF KENTUCKY, INC., *et al*

DEFENDANTS

* * * * *

This matter is currently before the Court upon the motion of the plaintiff, Sharon Marie Evans, to reconsider the Memorandum Order entered by Magistrate Judge James B. Todd on January 6, 2010. Specifically, Evans argues that the defendants' failure to comply with the discovery rules requires that the Scheduling Order be modified to allow her more time to identify her expert witnesses. She also argues, based on her constitutional arguments raised before Judge Todd, that she should be allowed to withdraw her opinion that the case is a simple case instead of a complex case, and that the scheduling order should be modified as set out in her original motion. The defendants have filed their response objecting to Evan's motion to reconsider [DE #44].

The Court has carefully reviewed the arguments raised by Evans in her original motion and again in this motion to reconsider, as well as Judge Todd's Memorandum Order of January 6, 2010. With respect to Evan's request for additional time to identify expert witnesses, the Court will grant only a brief extension of the deadline established by Judge Todd in light of the fact that the deadline has already expired during the pendency of the motion. However, the Court agrees with Judge Todd that Evans has not established a need for granting her requested extension until March 8, 2010.

Because Evans has had a sufficient amount of time, including extensions of time, to identify her expert witnesses, the Court will require her to identify her expert witnesses by February 10, 2010. Because the Court agrees with Judge Todd that Evans should be required to identify her expert witnesses before the defendants - consistent with the process set out in the Scheduling Order - the defendants shall have a brief extension of time, until February 22, 2010, to identify their expert witnesses.

Reviewing Evans' remaining objections to Judge Todd's Memorandum Order, the Court finds that she has failed to set forth a reasonable basis, in law or fact, to justify any further modifications of the scheduling order. Nor is it relevant or consequential whether Evans' counsel considers this a simple or a complex case. Accordingly, the remainder of Evans' motion to reconsider will be denied.

In conclusion, the Court, being fully and sufficiently advised, hereby **ORDERS** as follows:

- (1) Evans' motion to reconsider [DE #41] is **GRANTED IN PART** to the extent that the Scheduling Order is modified such that the plaintiff shall identify her experts no later than February 10, 2010; the defendants shall identify their experts no later than February 22, 2010;
- (2) Evans' motion to reconsider [DE #41] is **DENIED** in all other respects; and
- (3) All other dates established in the original Scheduling Order, as amended, including the pretrial conference and trial dates, **SHALL REMAIN IN FULL FORCE AND EFFECT** and are not amended by this Order.

This 3rd day of February, 2010.



Signed By:

Karl S. Forester K S F

United States Senior Judge