

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 [DE #69] to enlarge the number of discovery requests, for an extension of time to complete fact discovery, to modify the Scheduling Order, and to extend time to amend her Complaint. The defendants object to Evans' motion on the grounds that it is untimely, unreasonable, and would result in undue prejudice to the defendants. Also before the Court is the motion of the governmental defendants to amend the scheduling order [DE #74], as well as the Agreed Order [DE #75] tendered by the plaintiff and governmental defendants, individually and officially, allowing the plaintiff until April 26, 2010 to respond to their motion for partial summary judgment.

The plaintiff, Sharon Marie Evans, filed this civil rights action on March 13, 2009 [DE #1]. The Court subsequently entered its Scheduling Order on June 29, 2009 [DE #14]. The deadlines contained in that Scheduling Order have been extended on multiple occasions at Evans' request. Nevertheless, on March 26, 2010, the revised deadline for filing dispositive motions and amending the pleadings, Evans filed the instant motion, seeking to reopen discovery and modify all other items in the Scheduling Order. The Court finds that Evans' motion is not well taken.

In full compliance with the Scheduling Order, as amended, the defendants have submitted their motions for summary judgment. Allowing Evans to reopen discovery in order to respond to the defendants' motions would be unfair to the defendants. Moreover, Evans has failed to articulate a reasonable basis for the relief she seeks. The discovery period in this case was nearly nine months long, and provided sufficient time for all the parties to conduct any necessary discovery. The Court has previously provided reasonable extensions of time for Evans, but will not do so at this late date.

Currently pending are the motions for summary judgment filed by the defendants on March 26, 2010 [DE ##67 and 68]. Evans has filed an untimely response to the motion of defendants Sir Pizza of Kentucky, Inc. and Brian N. Taylor, which the Court will consider. The governmental and individual defendants Lexington-Fayette Urban County Government, Chief Ronnie Bastin, Officer Dawn R. Dunn, Officer Raymond D. Terry, Officer Noel Warren, and Sergeant David Biroshchik, have agreed to allow Evans until April 26, 2010 to file her response to their motion for summary judgment.

Due to the pending motions for summary judgment, the Court will amend the Scheduling Order to the extent that the parties' pretrial filing requirements are suspended until further notice. The pretrial conference and trial will also be continued indefinitely pending the Court's ruling on the motions for summary judgment.

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

- (1) Evans' motion to modify the Scheduling Order [DE #69] is **DENIED**;
- (2) Evans shall file any response to the defendant's motions for summary judgment **NO LATER THAN APRIL 26, 2010**; and
- (3) In light of the pending motions for summary judgment, the parties' pretrial filing requirements are **SUSPENDED** until further notice. The pretrial conference, currently set for May 15, 2010 and the trial set for June 15, 2010 are **CONTINUED** indefinitely.

- (4) The governmental defendants' motion to amend scheduling order [DE #74] is **DENIED** without prejudice to refileing.

This April 20, 2010.



Signed By:

Karl S. Forester *KSF*

United States Senior Judge