

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
Baltimore Division

2006 AUG 23 P 3:15

ALBERT SNYDER, *
Plaintiff *

BY _____ DEPUTY

v. * Civ. No.: 1:06-cv-01389-RDB

FRED W. PHELPS, SR., *
et al. *
Defendants. *

* * * * *

DEFENDANTS' MOTION TO EXTEND THE TIME TO FILE A RESPONSIVE PLEADING, AND REQUEST FOR ACCELERATED ACTION ON THIS MOTION

Pursuant to Fed. R. Civ. P. 6(b), and all other provisions of law, Defendants Fred W. Phelps, Sr., and Westboro Baptist Church, Inc. ("Defendants") respectfully move for twenty additional days (i.e., a new filing deadline of September 18, 2006) to file a responsive pleading to the Complaint, for the following grounds:

1. Undersigned counsel has just been hired to represent Defendants Phelps and Westboro Baptist Church, and has entered his appearance today.

2. Undersigned counsel needs additional time to prepare a responsive pleading, in part because:

a. The ten-page Complaint contains in-depth factual allegations, and asserts that contents of Defendants' alleged

Approved this 23rd day of August 2006
Richard D. Bennett
Richard D. Bennett
United States District Judge

website also forms the basis for the Complaint. The Complaint alleges defamation, invasion of privacy, intentional infliction of emotional distress, and civil conspiracy. Undersigned counsel anticipates filing an in-depth motion to dismiss. Sufficiently responding to the in-depth Complaint requires a reasonable extra time period, including consulting with the two defendants.

b. Defendants' answer is due Monday, August 28.

Intervening between today and the answer filing deadline are undersigned counsel's spending substantial time closing on a house, and moving into the new house between August 24 and 26, 2006, as well as obligations by August 25 to file a detailed response to the District of Columbia Alcohol Board, and to file a this week an interlocutory in-depth appeal brief to the Virginia Supreme Court for a denial of bond in a felony matter. Additionally, undersigned counsel must prepare for and appear at a criminal jury trial in Frederick, Maryland (August 28), a drug felony preliminary hearing in Loudoun County, Virginia (August 30), a felony preliminary hearing in Arlington, Virginia (September 7), a felony criminal motions hearing in Prince George's County (Sept. 8), a criminal status hearing in Superior Court (September 11), and criminal trials in Montgomery County, Maryland (September 12, 14, and 15). Defendant's firm's remaining lawyer has substantial client obligations, as well, and primarily practices immigration law.

3. Although Defendants could have sought counsel with more time to file an earlier responsive pleading, Defendants are defending against damning charges that expose them to devastating financial liability and the chill of their First Amendment rights, and they need counsel experienced in First Amendment and libel defense and litigating in federal court. This lawsuit implicates not only Defendants' free speech rights, but also Defendant Westboro Baptist Church's First Amendment right to free exercise of religion, in that undersigned counsel understands that the church's actions are motivated by the bible.

Moreover, one might expect that some lawyers would refuse to take Defendants' case, to avoid associating with a client that allegedly publicly proclaims hatred of homosexuals. Undersigned counsel fully welcomes fighting for Defendants in this litigation, having in-depth experience advocating for robust free expression protection of people from all parts of the opinion spectrum, having First Amendment advocacy experience in this court, the federal trial court in the District of Columbia, and the Maryland and District of Columbia appellate courts, including recently obtaining the dismissal of a defamation suit in *Dring v. Sullivan*, 423 F. Supp. 2d 540 (D.Md. 2006).

4. Undersigned counsel understands the importance of judicial efficiency, and files this Motion with an eye towards satisfying judicial efficiency while also assuring Defendants their proper day in court. With ten years of in-depth civil litigation experience in this and other courts -- including first-chairing over twenty civil jury trials -- undersigned counsel will fully focus on judicial efficiency and on maintaining civil and efficient communications with opposing counsel.

WHEREFORE, Defendants Fred W. Phelps, Sr., and Westboro Baptist Church, Inc., respectfully move to have until September 18 ^{PDB} 2006, to file a responsive pleading, and move that this Motion be Granted prior to the current August 28 deadline for filing an Answer to the Complaint.

Respectfully submitted

MARKS & KATZ, L.L.C.

/s/ Jonathan L. Katz
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CERTIFICATE OF GOOD FAITH EFFORTS

I HEREBY CERTIFY that I have made the following good faith efforts to obtain Plaintiff's consent to this Motion: On August 23, 2006, at 10:00 a.m., undersigned counsel called the law firm where all plaintiffs' counsel work (717-468-8888). Undersigned counsel left a detailed voice mail to Paul W. Minnich, Esquire, requesting his consent to a Motion for twenty additional days to file a responsive pleading. Before leaving this voice mail, a secretary for Mr. Minnich informed him that that remaining plaintiff's counsel were not in the office at the time (Craig Tod Trebilcock, Esq., Rees Griffiths, Esq., and Sean E Summers, Esq.) If undersigned counsel obtains Plaintiff's counsels' consent, he will promptly notify the Court.

/s/ Jonathan L. Katz

Jonathan L. Katz

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion was served by the CM/ECF filing system on August 23, 2006, to:

Paul W Minnich, Esquire
Craig Tod Trebilcock, Esquire
Rees Griffiths, Esquire
Sean E Summers, Esquire

/s/ Jonathan L. Katz

Jonathan L. Katz