

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

ALBERT SNYDER,
Plaintiff

v.

FRED W. PHELPS, SR.,
JOHN DOES, JANE DOES, and
WESTBORO BAPTIST CHURCH, INC.
Defendants

Civil Action No. 06-CV-1389 RDB

**MOTION TO ENLARGE TIME FOR JOINDER OF ADDITIONAL PARTIES AND
AMENDMENT OF PLEADINGS**

AND NOW, Plaintiff, Albert Snyder, by and through his undersigned counsel, respectfully moves the Court to enlarge the time allowed to join additional parties and amend the pleadings.

1. On June 5, 2006, plaintiff filed a Complaint in the above-captioned action.
2. After the Complaint was filed, defendants successfully evaded service for a period of time. Ultimately, defendants were served but only after the Court granted a Motion for Alternative Service.
3. Thereafter, defendants filed a Motion to Extend the Time to File a Responsive Pleading, which was granted. Defendants, subsequently, filed a Motion to Dismiss which was ultimately denied.
4. After the Court denied defendants' Motion to Dismiss, the Court conducted a telephone conference on November 28, 2006.
5. As evidenced by all of plaintiff's submissions to date, the undersigned counsel has been the primary plaintiff's counsel throughout this litigation. The undersigned counsel was out of the office and otherwise unavailable during the week of November 26 to December 2.

Nevertheless, the undersigned counsel participated in the telephone conference on November 28, 2006 so that the matter would not be delayed further.

6. Upon returning to the office and on December 5, 2006, counsel conferred via e-mail regarding discovery and scheduling matters. In relevant part, defendants were notified that written discovery would be forthcoming and that plaintiff intended to amend the Complaint to name the adult individuals from defendant Westboro Baptist Church, Inc. that participated in the protest and disruption of Matt Snyder's funeral.¹

7. On December 22, 2006, plaintiff served discovery requests on defendants requesting, *inter alia*, the names of the individuals from defendant Westboro Baptist Church, Inc. that participated in the protest and disruption of Matt Snyder's funeral. One of the obvious purposes of this discovery request was to identify the "John and Jane Does."

8. Pursuant to the Federal Rules of Civil Procedure, responses to the discovery requests are due thirty (30) days from December 22, 2006, or stated differently, on January 22, 2007.

9. Even if written discovery would have been served upon return of plaintiff's counsel (i.e., December 4, 2006), defendants would not be required to respond until January 4, 2007. Service would be completed upon depositing the responses in the mail on January 4, 2007. Therefore, at best, plaintiff would receive responses by January 5, 2007.

10. The Motions to join additional parties or amend the pleadings are due on January 5, 2007.

¹ Defendants were also put on notice via Plaintiff's Response to Defendants' Motion to Dismiss. Plaintiff identified the "John or Jane Does" as the adult individuals that participated in the protest and disruption of Lance Corporal Matthew Snyder's funeral.

11. Upon information and belief, there were approximately seven (7) individuals from defendant Westboro Baptist Church, Inc. present during the protest and disruption of Matt Snyder's funeral. Defendant Fred W. Phelps, Sr. has already been identified. Upon information and belief, Shirley Phelps-Roper was also present and participated in the protest and disruption.

12. Sadly, defendant Phelps and Shirley Phelps-Roper brought one or more children with them to protest Matt Snyder's funeral. Defendant Westboro Baptist Church, Inc. posted pictures on their website depicting the protest and disruption.

13. It is plaintiff's intention to amend his Complaint to add the adult individuals from defendant Westboro Baptist Church, Inc. that participated in the protest and disruption of Matt Snyder's funeral.

14. Upon information and belief, defendant Fred W. Phelps, Sr. is the leader and pastor of defendant Westboro Baptist Church, Inc. and the father, grandfather, or great-grandfather of all individuals that participated in the protest and disruption of Matt Snyder's funeral. Therefore, defendant Phelps would be able to identify each individual that participated in the protest and disruption of Matt Snyder's funeral.

15. If this Motion is denied, plaintiff will move to amend his Complaint on or before January 5, 2007 to add Shirley Phelps-Roper as a defendant. In addition, after defendants Phelps and Westboro Baptist Church, Inc. respond to their discovery requests, plaintiff will move, yet again, to amend his Complaint to include all adult individuals who participated in the protest of Matt Snyder's funeral.

16. Rather than file multiple motions to amend the Complaint, plaintiff is requesting an additional thirty (30) days enlargement of time to join additional parties or amend the pleadings.

17. The additional thirty (30) days will allow the defendants to respond to the discovery and plaintiff will be able to accurately identify all of the defendants.

18. Plaintiff has not delayed the request to amend his pleadings. Furthermore, defendants cannot demonstrate prejudice, bad faith or futility concerning the amendment of the pleadings.

19. Because defendants cannot demonstrate delay, prejudice, bad faith or futility, leave to amend should ultimately be granted. Edwards v. City of Goldsboro, 178 F.3d 231 (4th Cir. 1999); and Johnson v. Oroweat Foods Co., 785 F.2d 503 (4th Cir. 1986).

20. Defense counsel was requested to concur in this Motion, but declined to offer his concurrence.

WHEREFORE, the plaintiff Albert Snyder respectfully requests that this Honorable Court grant the plaintiff's Motion for Enlargement of Time to Join Additional Parties and Amend the Pleadings.

BARLEY SNYDER LLC

By: _____/s/ Sean E. Summers_____

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CERTIFICATE OF NON-CONCURRENCE

I hereby certify that I contacted counsel for defendants, Jon Katz, with regard to the Motion for Enlargement of Time to Join Additional Parties and Amend the Pleadings, and he has **not concurred** in the Motion.

BARLEY SNYDER LLC

By: _____/s/ Sean E. Summers_____

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