

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

NEW JERUSALEM DELIVERANCE CHURCH,

Plaintiff,

v.

Case No. 10-12566

THOMAS RABETTE, et al.,

Defendants.

**ORDER DENYING MOTION FOR RECONSIDERATION AND STAYING BRIEFING
SCHEDULE ON MOTION FOR SUMMARY JUDGMENT**

The court granted Defendants' motion for protective order on January 24, 2011. Plaintiff has moved for reconsideration of that order, or in the alternative, for a rehearing on the matter. The court will deny the motion. In addition, the court will stay the briefing schedule on Defendants' pending motion for summary judgment while the court adjudicates Plaintiff's pending motion to dismiss.

In its "Motion for Rehearing/Reconsideration," Plaintiff argues that the court's order "is so prejudicial to its case against the Defendants, that said Order constitutes a denial of the substantive and procedural due process rights guaranteed to Plaintiff by the Constitutions of the United States and the State of Michigan." (Mot. ¶ 1.) Plaintiff reasserts its theory of the case, contends that discovery is necessary to prove that theory, and says the contemplated targeted discovery under Federal Rule of Civil Procedure 56(d) will not "effectively remed[y]" the prejudice. (*Id.* ¶ 1-2.)

To prevail on a motion for reconsideration, Plaintiff "must not only demonstrate a palpable defect by which the court and the parties . . . have been misled but also show

that correcting the defect will result in a different disposition of the case.” E.D. Mich. LR 7.1(h)(3). Plaintiff here has shown no defect, let alone a palpable defect, in the court’s reasoning, and merely reasserts its reasons for seeking a period of discovery. The court granted Defendants’ motion for protective order and invited Defendants’ motion for summary judgment because the issue asserted in Plaintiff’s complaint is narrow, and does not warrant the excessively broad discovery sought by Plaintiff. If the case proceeds to a resolution of the pending motion for summary judgment, Plaintiff may seek discovery pursuant to Rule 56(d), as was outlined by the court in the January 24, 2011, order. This procedural remedy is sufficient to provide Plaintiff with a means to discover what information it requires to attempt to show there is a genuine dispute of fact in this case.

However, because Plaintiff has filed a motion to dismiss without prejudice, in the interest of efficiency the court will resolve that motion before addressing Defendants’ motion for summary judgment. Therefore, the court will stay the time for Plaintiff to file a response, and Plaintiff need not file a response, until further order of the court.

Accordingly,

IT IS ORDERED that Plaintiff’s motion for reconsideration [Dkt. # 34] is DENIED.

IT IS FURTHER ORDERED that the time for Plaintiff to file a response to Defendants’ “Motion for Summary Judgment” [Dkt. # 33] is STAYED until further order of the court.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: February 10, 2011

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, February 10, 2011, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522