

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

LOUIS ALDINI, JR., Plaintiff, -vs- DUSTIN L. JOHNSON, et al., Defendants.	: : :	Case No. 3:07-cv-183 Magistrate Judge Michael R. Merz
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ORDER

This case is before the Court *sua sponte* for amendment of the schedule. The Court has entered summary judgment on behalf of Defendants Kaczmarek and Leopold and denied summary judgment in part with respect to Defendants Johnson and Bodine (Doc. No. 42). Defendants Johnson and Bodine have appealed (Doc. No. 43) and Plaintiffs have sought a certificate of finality under Fed. R. Civ. P. 54 so that they can cross-appeal (Doc. No. 45).

During oral argument on the summary judgment motion, there was some discussion by Plaintiff of the possibility that he might move to have the appeal declared frivolous so that the trial could proceed. However, no such motion has been filed and the parties have not prepared the case for trial by filing the required joint proposed final pretrial order as required by the Scheduling Order.

Accordingly, it is hereby ORDERED:

1. The final pretrial conference set for 4:30 p.m. on March 4, 2009, and the trial set for March 9, 2009, are vacated.
2. Defendants shall file any opposition to the motion under Fed. R. Civ. P. 54 not later than March 9, 2009.

March 4, 2009.

s/ **Michael R. Merz**
United States Magistrate Judge