

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOSEPH R. REISINGER,

Plaintiff

vs.

THE CITY OF WILKES-BARRE;  
THOMAS LEIGHTON; FRANCES  
KRATZ; GREGORY BARROUK;  
MICHAEL KERMEC and THE CADLE  
COMPANY, II, INC.,

Defendants

CIVIL ACTION – LAW

JURY TRIAL DEMANDED

(Honorable Richard P. Conaboy)

NO. 3:09-CV-00210

**MOTION FOR EXTENSION OF TIME**  
**TO COMPLETE DISCOVERY**  
**AND TO AMEND THE CASE MANAGEMENT SCHEDULE**

The Defendants, CITY OF WILKES-BARRE, THOMAS LEIGHTON, FRANCIS KRATZ and GREGORY BARROUK (the “City Defendants”), by and through their attorneys, Rosenn, Jenkins & Greenwald, LLP, hereby move for an extension of time of sixty (60) days within which to complete discovery, and extend accordingly, the other deadlines in the Case Management Order, and in support thereof, aver as follows:

1. On January 26, 2010, Plaintiff filed a Motion for Enlargement of Time to Complete Discovery; the Defendants disputed the scope of the discovery to be allowed during any extension that might have been granted.

2. The Court entered an Order on February 9, 2010 revising the Case Management Order which extended the discovery deadline to March 31, 2010 and which limited the scope of discovery as follows:

- (1) During the extension period the depositions of Plaintiff, Dawn McQuaide, Ken Luck, John Popovich, Rose Ann Lesh, and Daniel Weber are to be conducted; and
- (2) The parties are allowed seven (7) days following the final deposition to conduct discovery related to information obtained during the depositions specifically allowed by this Order.

3. The Plaintiff was unavailable to have his deposition taken or to attend the deposition of other persons due to health related reasons until March 9.

4. Plaintiff's deposition took place for four hours on March 9, after which Plaintiff insisted that the deposition be continued until the next day for health reasons which allegedly limited his ability to participate more than four hours.

5. The following day, March 10, the previously scheduled depositions of Ken Luck and Rose Ann Lesh took place. In addition, the Plaintiff's deposition

was resumed but again was not completed because Plaintiff who insisted on attending the deposition of the others, again demanded that his deposition end after he spent a total of four hours attending the other depositions and his own. The deposition of his secretary Dawn McQuaide which had been scheduled to take place at this time did not occur because Plaintiff insisted on being present for the deposition and said he could not attend given his health limitations.

6. As the result of the taking of the Plaintiff's deposition, Defendants have identified in that deposition five (5) additional people they need to depose – namely, Al Carpinet, Bob Williams, Ralph Malone, the name of a secretary of Plaintiff to be provided but he has yet to do so, and the name of an employee who worked in the Plaintiff's realty business, the name of which Plaintiff promised to provide but has yet to provide to Defendants. In addition, Plaintiff's current secretary Dawn McQuaide who had been scheduled but did not get deposed has to take place as well as the completion of Plaintiff's deposition.

7. Defense counsel cannot possibly complete the aforesaid depositions on or before March 31 particularly since Plaintiff has now terminated his counsel and is proceeding pro se, and he continues to contend that he cannot attend depositions for more than four hours on any given date.

8. It also became apparent during Plaintiff's deposition that he had not produced certain documents that he had in his possession and/or control, and he promised to produce those documents.

9. The City Defendants request that the discovery deadline be extended for sixty (60) days until May 31, 2010 for Defendants only to take the above-referenced depositions and obtain the documents from Plaintiff.

10. It is further requested that the Court direct the Plaintiff to attend full day depositions rather than limiting them essentially to half day depositions, unless he can produce to the Court's satisfaction a medical report from a physician that indicates he cannot participate for more than four hours in the taking of depositions.

11. The City Defendants request that the Plaintiff continue to be prohibited from scheduling depositions in this matter as set forth in the Court's February 9, 2010 Order since Plaintiff failed to schedule any depositions on or before January 31, 2010 which was the discovery deadline before the Court's extension thereof, unlike the City Defendants who scheduled the depositions of Plaintiff and the other people Plaintiff had identified in Answers to Interrogatories for taking their depositions within the discovery deadline.

12. The City Defendants oppose the Plaintiff's recently filed Motion to Request Amendment of Case Management Plan filed on March 22 in which

Plaintiff requests the Court to extend the time for completion of discovery for 120 days until July 31, 2010 and allow the Plaintiff to do discovery in that time, contrary to the Court's existing February 9, 2010 Order.

13. The City Defendants request that the Case Management Order be adjusted, as set forth in the proposed Order filed with this Motion, so that the Defendants' discovery deadline would be May 31, 2010, the Dispositive Motion deadline would be extended from May 31, 2010 to July 31, 2010, and the Defendants' expert report would be due on or before June 30, 2010.

14. The instant Motion is made in good faith and not for purposes of delay; the Motion is necessitated by the Plaintiff's failure to make himself available for the taking of his deposition sooner, and his refusal to participate more than four hours at any given time in the taking of depositions, and now by his termination of his counsel in this matter and his prosecution of the case pro se.

15. Kevin T. Fogerty, Esquire, counsel for Defendants The Cadle Company, II, Inc. and Michael Kermec, concur in this Motion. The pro se Plaintiff Joseph Reisinger does not concur in this Motion.

WHEREFORE, Defendant CITY OF WILKES-BARRE, THOMAS LEIGHTON, FRANCIS KRATZ and GREGORY BARROUK, respectfully request that this Motion for Extension of Time to Complete Discovery and to Amend the Case Management Order accordingly, be granted.

ROSENN, JENKINS & GREENWALD, LLP

BY: /s/Donald H. Brobst

DONALD H. BROBST, ESQUIRE

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THOMAS LEIGHTON, FRANCES

KRATZ AND GREG BARROUK

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**CERTIFICATE OF SERVICE**

DONALD H. BROBST, ESQUIRE, hereby certifies that on the 25<sup>th</sup> day of March, 2010, he caused to be served a true and correct copy of the Motion for Extension of Time to Complete Discovery and Amend the Case Management Schedule, by electronic mail to the following:

Joseph Reisinger, Esquire  
444 South Franklin Street  
Wilkes-Barre, PA 18702

Kevin T. Fogerty  
Law Offices of Kevin T. Fogerty  
Mill Run Office Center  
1275 Glenlivet Drive, Suite 150  
Allentown, PA 18106

ROSENN, JENKINS & GREENWALD, LLP

BY: /s/Donald H. Brobst

DONALD H. BROBST, ESQUIRE



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**CERTIFICATE OF CONCURRENCE AND NON-CONCURRENCE**

DONALD H. BROBST, ESQUIRE, hereby certifies that Kevin Fogerty, Esquire, counsel for Defendants Michael Kermec and The Cadle Company, II, Inc., concurs in this Motion, and that the pro se Plaintiff Joseph Reisinger does not concur in this Motion.

/s/Donald H. Brobst  
DONALD H. BROBST, ESQUIRE