

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 AMENDED 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 ninety (90) days within which to complete discovery, and extend accordingly, the other deadlines in the Amended Case Management Order, and in support thereof, aver as follows:

1. On May 27, 2010, the Court entered an Amended Case Management Order which extended the discovery deadline to June 30, 2010 and extended the other deadlines accordingly.

2. The conclusion of Plaintiff deposition was previously scheduled for May 20, 2010, June 17, 2010, and June 23, 2010, each time the depositions were rescheduled at the insistence of the Plaintiff.

3. The conclusion of Plaintiff's deposition was scheduled to take place on July 1, 2010, but had to be cancelled due to the death of Plaintiff's son on June 29, 2010.

4. The deposition of Dawn McQuade was previously scheduled for January 28, 2010, March 9, 2010, May 20, 2010, June 16, 2010, June 24, 2010, and July 2, 2010, each time the deposition was rescheduled at the insistence of Plaintiff.

5. The deposition of a representative of Tyco Fire & Security/Simplex Grinnell which was to be scheduled to take place on July 2, 2010 needs to be scheduled.

6. Defendants are still waiting for Plaintiff to provide us with the name and address of the secretary of Plaintiff and the name and address of an employee who worked in the Plaintiff's realty business in order to schedule their depositions,

the names of which Plaintiff promised to provide but has yet to provide to Defendants.

7. The City Defendants request that the discovery deadline be extended for ninety (90) days until September 30, 2010 for Defendants only to take the above-referenced depositions and obtain the documents from Plaintiff.

8. 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.

9. The City Defendants request that the Amended Case Management Order be adjusted, as set forth in the proposed Order filed with this Motion, so that the Defendants' discovery deadline would be September 30, 2010, the Dispositive Motion deadline would be November 15, 2010, the Plaintiff's expert report would be due September 30, 2010, the Defendants' expert report would be due on or before October 31, 2010, and the Pre-Trial Conference would be March 11, 2011 with Trial scheduled for April 2011.

10. 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 the death of Plaintiff's son.

11. 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 Amended Case Management Order accordingly, be granted.

ROSENN, JENKINS & GREENWALD, LLP

BY: /s/Donald H. Brobst

DONALD H. BROBST, ESQUIRE

15 South Franklin Street

Wilkes-Barre, PA 18711

(570) 826-5655

(570) 831-7215 (Fax)

dbrobst@rjqlaw.com

PA17833

Attorneys for Defendants,

THE CITY OF WILKES-BARRE,

THOMAS LEIGHTON, FRANCES

KRATZ AND GREG BARROUK

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

CERTIFICATE OF SERVICE

DONALD H. BROBST, ESQUIRE, hereby certifies that on the 23rd day of July, 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, Esquire
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, ESQUIRE
DONALD H. BROBST, ESQUIRE

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

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, ESQUIRE
DONALD H. BROBST, ESQUIRE