

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

VALENCIA M. MCCLATCHEY,)	
)	
Plaintiff,)	
)	Civil Action No. 05-145J
v.)	
)	
THE ASSOCIATED PRESS,)	JURY TRIAL DEMANDED
)	
Defendant.)	
)	

**UNCONTESTED MOTION OF THE ASSOCIATED PRESS
TO MODIFY THE CASE MANAGEMENT ORDER**

The Associated Press (hereinafter "AP") hereby moves to modify the Case Management Order entered on December 5, 2005, to extend the deadlines set forth in the Order by six weeks. Each of the parties has advanced the case and proceeded diligently through fact discovery, which is scheduled to close on February 1, 2006.¹ Both sides have served and responded to written discovery, and both sides have noticed all of their depositions.

AP moves to modify the Case Management Order in light of the sudden and unexpected unavailability of one of its key witnesses, the AP photographer who obtained the photograph at issue in the case. The photographer's deposition was noticed by plaintiff, and the parties had scheduled the deposition. Nevertheless, on Monday, January 23, 2006, counsel for the AP learned that the witness will be unavailable for approximately six weeks due to pressing, and unexpected, work commitments.

The photographer is assigned to cover the Pittsburgh Steelers football team for the AP. Because of the Steelers' victory in the conference championship last weekend, the photographer

¹ Under the original Case Management Order, fact discovery was scheduled to close on December 2, 2005. On December 5, 2005, the Court entered a stipulated order extending discovery approximately two months

will be out of town covering the team as it prepares for the Super Bowl at the time his deposition is presently scheduled. Immediately following the Super Bowl, the photographer will travel to Italy on an assignment for the AP to cover the Winter Olympics and will not be available until after the Olympics conclude.

The AP has consulted with Plaintiff's counsel concerning the extension, and all counsel have agreed to the following proposal for a modified schedule:

<u>Event</u>	<u>Existing Deadline</u>	<u>Proposed Deadline</u>
Close of Fact Discovery	February 1, 2006	March 15, 2006
Expert Reports	February 15, 2006	March 29, 2006
Responses to Expert Reports	March 13, 2006	April 24, 2006
Expert Depositions	March 31, 2006	May 12, 2006
Deadlines for Motions for Summary Judgment	April 3, 2006	May 15, 2006
Plaintiff's Pretrial Narrative Statement	April 21, 2006	June 2, 2006
Defendant's Pretrial Narrative Statement	May 15, 2006	June 26, 2006
Joint Statement Regarding Magistrate Judge	May 31, 2006	July 12, 2006

Accordingly, the AP respectfully requests that the Court grant its Uncontested Motion to Modify the Case Management Order.

Dated: New York, New York
January 26, 2006

Respectfully submitted,

LEVINE SULLIVAN KOCH & SCHULZ, L L.P.

By: /s/ Robert PENCHINA

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