

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

BIDZIRK, LLC, DANIEL G. SCHMIDT, )  
III, and JILL PATTERSON, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
PHILIP J. SMITH, )  
 )  
Defendant. )

Civil Action No. 6:06-CV-00109-HMH

MOTION TO REVISE  
SCHEDULING ORDER

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COMES NOW BidZirk LLC, Daniel G. Schmidt, III and Jill Patterson, Plaintiffs in the above-captioned action, and make and file this their motion to revise the Court’s current scheduling order, and show the Court as follows:

**INTRODUCTION**

The Court entered an initial scheduling order in this action on March 3, 2006 (Doc. 20). The case went to the Fourth Circuit on an appeal of the Court’s denial of Plaintiffs’ motion for injunctive relief, and was under consideration by that Court for several months. The Court previously extended by 60 days certain deadlines published in its original scheduling order, but this amount of time proved insufficient, as the appeal was not decided until April 2007. The Court held a status hearing on May 2, 2007, at which time the Court requested Plaintiffs to submit a proposed set of revised deadlines leading to the time of trial, to which Defendant would be permitted a period of 10 days in which to object. Plaintiffs’ proposed order is exhibited hereto.

### **ARGUMENT**

Courts are vested with power to “manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” CareFirst of Md., Inc. v. First Care, P.C., 422 F. Supp. 2d 592 (E.D. Va. 2006) quoting Chambers v. Nasco, Inc., 501 U.S. 32, 43 (1991). Fed. R. Civ. P. 6(b) specifically states that when an act “is required or allowed to be done within a specified time, the court for cause shown may at any time in its discretion . . . order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order.” The requested revision of deadlines to allow the parties time to prepare for trial falls within this rule.

### **CONCLUSION**

Based upon the foregoing, Plaintiffs pray that the Court grant their motion, and enter the proposed order exhibited hereto as the order of the Court, governing scheduling in this action through trial.

This 9<sup>th</sup> day of May, 2007.

/s/ Kevin M. Elwell

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SCHEDULING ORDER

This matter came regularly before the Court on May 2, 2007, at a status conference ordered by the Court. At the conclusion of the conference, the Court requested counsel for Plaintiffs to prepare a proposed scheduling order, to file it and serve it on Defendant and directed that, if no opposition was filed within the prescribed 10-day period, the proposed order would become the order of the Court. Plaintiffs propose the following milestones for the remainder of this action:

- (1) Discovery has expired, as of August 6, 2006. The only discovery permitted during the remainder of this action will occur with the consent of both parties, so long as such does not interfere with other dates published in this order;
- (2) Any discovery-related motions, e.g., motions to compel discovery, shall be filed on or before June 15, 2007;

- (3) Any dispositive motions; e.g., motions for summary judgment, shall be filed on or before July 13, 2007;
- (4) Motions in limine and deposition designations, if any, shall be filed on or before September 7, 2007;
- (5) The parties shall attempt to consolidate and file a pre-trial order in the form prescribed by the Court and applicable federal rules on or before September 21, 2007;
- (6) Time periods for responses, replies, etc. to motions filed pursuant to this order shall be computed utilizing the Court's local rules;
- (7) If the parties cannot consolidate a pre-trial order by agreement, the parties shall submit their respective proposed pre-trial orders to the Court on or before September 21, 2007;
- (8) The parties shall submit propose voir dire questions, proposed jury instructions and proposed exhibit lists on or before September 28, 2007;
- (9) The parties will attend a pre-trial conference with the Court at a time to be scheduled during the week of October 1-5, 2007;
- (10) The parties shall submit any proposed jury verdict form at the pre-trial conference;
- (11) The parties shall be prepared to try this case during the month of November 2007, at a time to be scheduled by the Court. The parties estimate that trial of the case will take three days to complete, but shall notify the Court if this estimate should reasonably be revised.

(signature next page)

SO ORDERED, this \_\_\_\_ day of May, 2007.

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WILLIAM M. CATOE  
United States Magistrate Judge  
United States District Court for the District  
of South Carolina, Greenville Division

PREPARED BY:

/s/ Kevin M. Elwell

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CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing MOTION TO REVISE SCHEDULING ORDER upon the following parties by depositing same in the United States Mail in a properly-addressed envelope with adequate postage affixed to:

Philip J. Smith  
601 Cleveland Street  
Apartment 5-C  
Greenville, South Carolina 29601

This 9<sup>th</sup> day of May, 2007.

/s/ Kevin M. Elwell

\_\_\_\_\_  
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