

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

BidZirk, LLC, Daniel G. Schmidt,)
III, and Jill Patterson,)
)
) Plaintiffs,)
)
 vs.)
)
 Philip Smith,)
)
) Defendant.)
_____)

Civil Action No. 6:06-0109-HMH-WMC

**ORDER AND
REPORT OF MAGISTRATE JUDGE**

This matter is before the court on several motions. The plaintiffs are represented by counsel, and the defendant is proceeding *pro se*. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(A) and Local Civil Rule 73.02)(B)(2)(e) D.S.C., all pretrial matters in cases involving *pro se* litigants are referred to a United States Magistrate Judge for consideration.

In their complaint, the plaintiffs allege claims for trademark dilution, defamation, and invasion of privacy. In a status hearing held before this court on May 2, 2007, the plaintiffs were directed to provide the court with a proposed amended scheduling order, which the plaintiffs did on May 7, 2007. The defendant filed his opposition to the motion to amend the scheduling order on May 11, 2007. The defendant argues that the proposed scheduling order is "unreasonable" as it would "take this case well beyond 2.5 years." The defendant also argues that the plaintiffs have abused discovery and requests that "he be granted an extension for discovery." The defendant's allegations of discovery abuse were ruled upon by this court on May 7, 2007. Further, the defendant has failed to identify any discovery that he needs, and he has provided no explanation for his failure to engage in discovery before the expiration of discovery on August 6, 2006. As for the defendant's complaint that this case has gone on too long, this court agrees. However, the

proposed amended scheduling order submitted by the plaintiffs is reasonable, with minor modifications. An amended scheduling order will be filed along with this order.

The defendant has also moved “for dismissal, judgment for slander of title, plea acceptance.” The defendant has cited no basis for dismissal of this case. The defendant’s request for judgment in “the amount of \$15,000 for the slander of title on my residence” is inappropriate as there is no such claim before this court.¹ Construing the motion as a motion to amend his answer to add a counterclaim for slander of title, that motion is denied. Should the plaintiff wish to pursue such a claim, the complaint should be filed in state court.

Now, therefore, based upon the foregoing,

IT IS ORDERED that:

- (1) the plaintiffs’ motion to amend scheduling order (doc. 93) is granted in part and denied in part;
- (2) the defendant’s motion for sanctions against the plaintiffs’ attorney (doc. 96) is denied;
- (3) the defendant’s request for extension of discovery (doc. 96) is denied; and
- (4) the defendant’s motion to amend his answer (doc. 96) is denied.

IT IS RECOMMENDED that the defendant’s “motion for dismissal, judgment for slander of title, plea acceptance” (doc. 96) be denied.

s/William M. Catoe
United States Magistrate Judge

May 21, 2007

Greenville, South Carolina

¹By order dated May 7, 2007, this court ordered the plaintiffs to cancel the *lis pendens* filed with regard to the defendant’s condominium. The plaintiffs’ attorney has advised the court that the *lis pendens* has been cancelled.