

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

ANGELEQUE J. McNUTT,)	
)	
Plaintiff,)	
)	
v.)	No. 3:08-CV-21
)	(Phillips)
BECHTEL JACOBS COMPANY, LLC,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Motion to Continue the Trial [Doc. 53] and Plaintiff's Motion to Strike Defendant's Response to Plaintiff's Motion to Continue the Trial [Doc. 58]. Trial of this case is set for August 31, 2010. On July 15, 2010, Plaintiff moved to continue the trial [Doc. 53]. On July 16, 2010, Defendant filed a response in which it objected to a continuance [Doc. 55]. On July 20, 2010, Plaintiff filed a Motion to Strike Defendant's Response to Plaintiff's Motion to Continue the Trial [Doc. 58]. On July 21, 2010, Defendant filed an Amended Response to Plaintiff's Motion to Continue the Trial [Doc. 61].

I. ANALYSIS

A. Plaintiff's Motion to Continue the Trial [Doc. 53]

The Court will not grant a continuance. First, both parties have not agreed to a continuance. Second, there is no evidence that Plaintiff would suffer undue prejudice unless the trial was continued. Third, neither party has indicated that it needs additional time to conduct discovery or prepare for trial. Accordingly, Plaintiff's Motion to Continue the Trial [Doc. 53] is **DENIED**. Trial remains set for August 31, 2010.

B. Plaintiff's Motion to Strike [Doc. 58]

In the Memorandum in Support of Plaintiff's Motion to Strike Defendant's Response to Plaintiff's Motion to Continue the Trial [Doc. 59], Plaintiff correctly states that Defendant improperly mentioned in its Response [Doc. 55] that Plaintiff was unwilling to consent to United States Magistrate Judge C. Clifford Shirley. As Plaintiff correctly recognized, neither the district judge or magistrate judge are to be informed of the decision to withhold consent. Accordingly, Plaintiff's Motion to Strike [Doc. 58] is **GRANTED**, whereby Defendant's Response to Plaintiff's Motion to Continue the Trial [Doc. 55] is **STRICKEN FROM THE RECORD**.

II. CONCLUSION

For the foregoing reasons, Plaintiff's Motion to Continue the Trial [Doc. 53] is **DENIED**, whereby trial remains set for August 31, 2010. In addition, Plaintiff's Motion to Strike [Doc. 58] is **GRANTED**, whereby Defendant's Response to Plaintiff's Motion to Continue the Trial [Doc. 55] is **STRICKEN FROM THE RECORD**. Finally, the Court notes that Defendant's Amended Response to Plaintiff's Motion to Continue the Trial [Doc. 61] remains part of the record.

IT IS SO ORDERED.

ENTER:

s/ Thomas W. Phillips
United States District Judge