

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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LINDA ZIPLER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 10-2895
	)	
	)	
SHELBY COUNTY GOVERNMENT,	)	
MAYOR MARK LUTTRELL, in his	)	
official Capacity only, SHELBY	)	
COUNTY CIVIL SERVICE MERIT	)	
REVIEW BOARD, SHELBY COUNTY	)	
TRUSTEE, David Lenoir in his	)	
Official capacity only; SHELBY	)	
COUNTY HUMAN RESOURCES	)	
DEPARTMENT, AND CHARLIE SIMS,	)	
Individually and in her	)	
official capacity,	)	
	)	
Defendants.	)	

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ORDER

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Before the Court is Magistrate Judge Charmiane C. Claxton's January 9, 2013 Report and Recommendation on Plaintiff Linda Zipler's ("Zipler") Second Motion for Default Judgment. (R & R, ECF No. 51.) Magistrate Judge Claxton recommended granting Zipler's Motion under Federal Rule of Civil Procedure 37(b)(2)(C) as a sanction against the Shelby County Defendants for discovery abuse. (Id.) Magistrate Judge Claxton found that the Court had established an extended schedule for mediation, discovery, and trial at a scheduling conference on May 1, 2012.

(Id.; see also ECF No. 28.) Magistrate Judge Claxton found that the Shelby County Defendants had failed to comply with the Court's amended discovery deadlines by failing to appear for depositions. (R & R.)

The Shelby County Defendants are represented by new counsel. On January 14, 2013, the Court held a status conference and entered a Second Amended Scheduling Order extending the deadlines for mediation, discovery, and dispositive motions, and resetting the jury trial. (ECF No. 55.) The revised deadline for all discovery is April 19, 2013. (Id.) Because the Court has taken the less drastic action of amending the case schedule, default judgment is no longer warranted. See Bank One of Cleveland, N.A. v. Abbe, 916 F.2d 1067, 1073 (6th Cir. 1990) (stating the factors to be considered when imposing default judgment as a sanction for discovery abuse); Fed. R. Civ. P. 37(b)(2)(C). Magistrate Judge Claxton's Report and Recommendation is therefore moot.

So ordered this 28th day of January, 2013.

s/ Samuel H. Mays, Jr.  
SAMUEL H. MAYS, JR.  
UNITED STATES DISTRICT JUDGE