

PATRICK A. TEDESCO,	:	IN THE COURT OF COMMON PLEAS OF
	:	LYCOMING COUNTY, PENNSYLVANIA
Plaintiff	:	
	:	
vs.	:	NO. 01-00,761
	:	
WEIS MARKETS, INC.,	:	
Defendant	:	MOTION TO EXTEND DISCOVERY

Date: July 22, 2002

MEMORANDUM OPINION and DECISION

This Court enters the following order in final resolution of Defendant's Motion to Extend Discovery, filed July 1, 2002, to permit Defendant to cause Plaintiff to undergo a medical examination prior to trial. The Motion will be denied.

On July 9th the Court stated at the time of argument on the record and through reference in a preliminary order the factors considered in the making of this decision. The proposed examination of Plaintiff by Defendant's physician was to be July 16th. Plaintiff objected because Defendant had not given notice of any intent to use such an expert prior to the June 15, 2002 discovery deadline and Plaintiff had already scheduled video trial depositions of Plaintiff's doctors for July 29th and August 14th. Plaintiff asserted it would not be possible to prepare Plaintiff's doctors for trial depositions with Defendant's physician's report not being generated until after July 16th. Plaintiff, therefore, asserted prejudice of being unable to prepare for trial. The Court and counsel at the time of argument also discussed that a trial continuance to the next Court term would not be advisable for several reasons.

The Court, at the time of argument, directed that Plaintiff's counsel should ascertain whether or not Plaintiff's physicians, whose depositions for use at trial had already been scheduled, would be able to schedule an appropriate time to allow Plaintiff to review with

them any information or reports from Defendant's physician proposing to examine Plaintiff on July 16, 2002, in order to prepare for the trial depositions. The Court has received a letter from Plaintiff's counsel in accordance with the provisions of that order which indicates that appropriate inquiry was made and that the physicians involved cannot make those schedule accommodations. (The letter is attached to the original of this Order.) As noted on the record at the time of argument by this Court such inability of those physicians to rearrange their schedules does not come as a surprise to the Court given the general scheduling difficulties concerning physicians that the Court has experienced in recent years. The Court believes that Plaintiff's counsel made a good-faith effort to reschedule the depositions. The delay of defense counsel in obtaining the examination by a physician for Defendant's benefit and use is without excuse. The granting of the extension of time in order that Defendant's physician could examine Plaintiff would unduly delay the trial and would make it impossible to bring this case to trial in September. Given the length of time this case has existed, given the age of Plaintiff, given all the other relevant factors considered by this Court on the record at the time of argument it is determined that prejudice would exist to Plaintiff and interference to the Court schedule would occur if the Motion for Extension were granted. Accordingly, the following Order will be entered.

ORDER

Defendant's Motion to Extend Discovery so as to allow for an examination of Plaintiff by Defendant's physician, which Motion was filed July 1, 2002, is DENIED.

BY THE COURT:

William S. Kieser, Judge

cc: John Bonner, Esquire
James M. Wetter, Esquire
459 Wyoming Avenue; Kingston, PA 18704
Judges
Paul J. Petcavage, Law Clerk
Gary L. Weber, Esquire (Lycoming Reporter)