

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,

Plaintiff,

MALERIE MEYERS,

Intervenor,

vs.

Case No. 3:04-cv-978-J-16MMH

JAX INNS, INC., d/b/a Spindrifter Hotel,

Defendant.

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**ORDER**

**THIS CAUSE** is before the Court on Defendant's Motion to Compel the Intervenor's Deposition and for Order Enlarging the Discovery Period (Doc. No. 37; Motion) filed on September 15, 2005. Plaintiff opposes the Motion. See Plaintiff and Intervenor's Joint Response in Opposition to Defendant's Motion to Compel the Intervenor's Deposition and for Order Enlarging the Discovery Period (Doc. No. 42; Joint Response). The Motion is now ripe for review.

This employment discrimination case was filed by the EEOC (Plaintiff) against Defendant on September 29, 2004. See Complaint (Doc. No. 1). On November 30, 2004, Malerie Meyers received approval from this Court to join the lawsuit as an Intervenor. See Order (Doc. No. 11). During the pendency of the suit, numerous attempts apparently have been made to set dates for the depositions of the Intervenor and certain other witnesses. See Motion at 2-4; Response at 2-3. However, due to

scheduling conflicts, several depositions, including that of the Intervenor, could not be conducted prior to the discovery deadline of September 30, 2005. See Motion at 5. Accordingly, the parties have agreed that an extension of the discovery deadline is warranted; however, they disagree as to the length of the enlargement and the scope of discovery which may be conducted during the enlarged discovery period. See Motion at 5-6; Response at 6.

Defendant is seeking a 90 day enlargement of the discovery deadline during which there would be no restriction on the discovery conducted, as well as a 90 day extension of all other deadlines set forth in the Case Management and Scheduling Order (Doc. No. 16; Scheduling Order). See Motion at 6. Further, Defendant is asking the Court to compel the deposition of the Intervenor. See id. In response, Plaintiff and the Intervenor argue that a full 90 days is not needed to complete discovery and have agreed to only a 60 day extension of the discovery period. See Response at 5-7. They suggest that such an extension would not require any change to the other pretrial deadlines. See id. at 6-7. Additionally, Plaintiff and the Intervenor argue that an order compelling the Intervenor's deposition is unwarranted because Defendant has not yet noticed her deposition and Plaintiff has agreed to produce the Intervenor for deposition. See id. at 4-5. Finally, Plaintiff and Intervenor ask the Court to impose sanctions on Defendant for bringing the Motion. See id. at 7.

The Court first turns to the request for an extension of time to complete discovery. Upon review of the Motion and Response, it appears the parties have shown good cause to extend the discovery deadline. Having considered the discovery

the parties assert will need to be concluded during the extension, and the scheduling conflicts that are already anticipated, the Court will grant Defendant's Motion to the extent that the discovery deadline will be continued to **December 13, 2005**. The Court will impose no restriction, beyond those agreed to by the parties in the Case Management Report (Doc. No. 14), on the nature of discovery conducted during this period. In light of the Court's extension of the discovery deadline, the remaining pretrial motion deadlines will also need to be extended. The undersigned will therefore continue the deadline for dispositive motions sua sponte. The parties shall file all dispositive motions no later than **January 18, 2006**. An amended Scheduling Order setting forth revised pretrial conference and trial dates will be entered by the presiding District Judge.

The Motion also seeks an order compelling the deposition of the Intervenor. However, the Intervenor has not failed to appear for a deposition. The deposition is not currently set<sup>1</sup> and both Plaintiff and the Intervenor have agreed to schedule that deposition at a mutually agreeable time. See Response at 5. With the enlargement of the discovery deadline, the Court sees no reason to conclude that the parties will not be able to arrive at dates amenable to all schedules to conduct this deposition. Under these circumstances, an order compelling the Intervenor to appear for a deposition is premature. Therefore, to the extent that the Motion seeks an order compelling the Intervenor's deposition, it will be denied.

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<sup>1</sup> The Court recognizes the Intervenor's deposition was noticed for July 12, July 28, and August 25, 2005 but for various reasons each time it was canceled. See Motion at 2-3. However, at this time, the Intervenor's deposition is not currently noticed.

As the Motion will be granted, in part, the undersigned concluded that the award of sanctions requested by Plaintiff and the Intervenor is unwarranted. Thus, the request will be denied.

Accordingly, it is hereby **ORDERED**:

1. Defendant's Motion to Compel the Intervenor's Deposition and for Order Enlarging the Discovery Period (Doc. No. 37; Motion) is **GRANTED, in part, and DENIED, in part.**

a. The parties shall have up to and including **December 13, 2005** to complete discovery.

b. The parties shall file any dispositive motions no later than **January 18, 2006.**

c. The Motion is otherwise **DENIED.**

2. Plaintiff and Intervenor's request for sanctions is **DENIED.**

**DONE AND ORDERED** at Jacksonville, Florida, this 11th day of October, 2005.

  
**MARCIA MORALES HOWARD**  
United States Magistrate Judge

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Copies to:

Counsel of Record