

**FILED**

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FT. MYERS DIVISION**

2002 FEB -5 AM 10: 56  
CLERK U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FT MYERS DIVISION

**UNITED STATES EQUAL  
EMPLOYMENT OPPORTUNITY  
COMMISSION, ET AL.**

**Plaintiff,**

**-vs-**

**Case No. 2:00-cv-409-FtM-29DNF**

**KRONBERG BAGEL COMPANY D/B/A  
BAKIN' BAGELS**

**Defendant.**

**ORDER**

This cause came on for consideration without oral argument on the following motion filed herein:

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**MOTION: DEFENDANT'S RENEWED MOTION TO COMPEL  
MENTAL EXAMINATION (Doc. No. 176)**

**FILED: January 30, 2002**

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**THEREON it is ORDERED that the motion is DENIED.**

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The Defendant Kronberg Bagel Company ("Kronberg") is renewing its request to have Intervenor Victoria Briggs submit to a mental examination and requesting for the first time that Intervenor Resa Gaston submit to a mental examination. On October 31, 2001, this Court entered an Order (Doc. 129) which denied Kronberg's request to have Intervenor Victoria Briggs submit to a mental examination holding that Ms. Briggs mental condition was not "in controversy." In the

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Renewed Motion, Kronberg claims that new facts have surfaced and it has discovered new law on the issue. The new facts are that the EEOC and the Intervenors submitted their damage disclosures on November 19, 2001 and November 20, 2001, respectively which indicate that they are seeking an amount of \$366,600 per person for emotional distress and other pecuniary losses. The new law cited was an Order entered by the Honorable Mark A. Pizzo, United States Magistrate Judge on July 10, 2001 in the case of *EEOC v. Rio Bravo International, Inc., et al.*, Case No. 8:99-cv-1371-T-17MAP, and an Order entered by the Honorable Thomas E. Morris, United States Magistrate Judge on July 25, 2001 in the case of *Hartley v. St. Johns County, Florida*, 3:00-cv-1006-J-25TEM and affirmed by the Honorable Henry L. Adams, United States District Judge on August 16, 2001.

This action is set to go to trial before the Honorable Kevin T. Duffy, United States District Judge in March 2002, approximately one month from the date of this Order. Kronberg by its own admission received the damage disclosures in November 2001. The new law cited by Kronberg was determined in July and August 2001. Kronberg then waited until January 30, 2002 in which to file the instant motion. Kronberg does not provide any justification for the delay from November 2001 until January 30, 2002 in the filing of this motion. Therefore, the Court finds that the Renewed Motion to Compel Mental Examination is untimely and should be denied.

**DONE and ORDERED** in Chambers in Ft. Myers, Florida this 5<sup>th</sup> day of February, 2002.

  
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 DOUGLAS N. FRAZIER  
 UNITED STATES MAGISTRATE JUDGE

Copies furnished to:  
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Date Printed: 02/05/2002

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