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

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION and GLENNDA HERRING,

Plaintiff,

v.

CASE NO: 8:01-cv-379-T-26EAJ

NORSTAN APPAREL SHOPS, INC.,
d/b/a FASHION CENTS,

Defendant.

_____ /

ORDER

The Court has for its consideration submissions from the Plaintiff, the Defendant, and the Intervenor relating to the Defendant's request that this Court compel the Intervenor to undergo an extensive mental examination pursuant to Federal Rule of Civil Procedure 35. Although the parties have exhaustively briefed the substantive issues involved, the Court need not reach those issues in light of the fact that the Court concludes under the circumstances presented that to grant the Defendant's request would disrupt the timetable established in this case by this Court's prior scheduling orders.

On May 25, 2001, this Court entered a Case Management and Scheduling Order. See docket 8. The Court based the order on the parties' Case Management Report. See docket 6. The Court, consistent with the parties Report, directed the parties in the order

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to disclose expert witness reports by February 4, 2002. On December 17, 2001, the Court, by endorsed order, granted the parties joint motion to extend the expert witness disclosure deadline until March 18, 2002. See docket 30. The Court granted the extension because the parties represented in the motion that “[t]he amended deadline will still allow for sufficient time to depose experts prior to the discovery cut-off date of May 6, 2002.” See id., page 3. As of the date of the entry of this order, the extended expert disclosure deadline has now expired.

Against this backdrop, the Court notes that it is clear from the parties’ submissions that on January 11, 2002, Defendant’s counsel advised Plaintiff’s and Intervenor’s counsel that because time was of the essence she wanted the Intervenor to undergo an independent psychological evaluation (IPE) by mid-February so that her expert could complete his expert witness report by the March 18 deadline. See docket 39, Exhibit C, page 2. Defendant’s counsel further advised that if the parties could not agree on an IPE then the Defendant “will need to file a motion with the Court by the end of next week in order to obtain a timely ruling.” See id. Although the Defendant was advised three days later that the Plaintiff and Intervenor would not agree to an IPE, the Defendant for some unexplained reason did not file its motion to compel such an examination until March 5, 2002, less than two weeks before the expiration of the expert witness disclosure deadline.

See docket 31.¹

In view of the foregoing facts, the Court agrees with the Plaintiff's contention that if the Defendant's motion is granted, the Court will have to extend the deadline for disclosure of experts, as well as the discovery cut-off date, to accommodate not only the needs of the Defendant but also the needs of the Plaintiff and the Intervenor. See id., pages 8-9. Such an extension of the discovery process, as the Plaintiff points out, "will most likely be both costly and time consuming[.]" see id., page 9, as well as have the domino effect of causing a continuance of the pretrial conference scheduled for August 27, 2002, and the trial scheduled for the term commencing September 30, 2002.

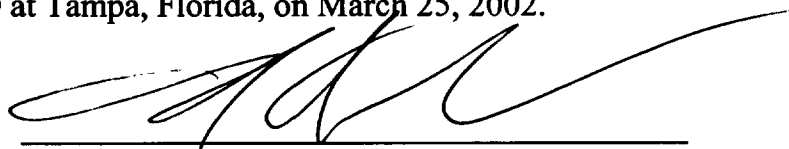
Eleventh Circuit precedent affords this Court broad discretion in controlling the pace of litigation and managing its cases to ensure that those cases "move to a reasonably timely and orderly conclusion." Chrysler International Corp. v. Chemaly, 280 F. 3d 1358, 1360 (11th Cir. 2002). In light of this broad grant of discretionary authority and the circumstances just recited, this Court concludes that the Defendant's motion to compel must be denied because to grant it would result in a disruption of the time lines established by this Court for completing discovery and for ensuring that this case is tried as scheduled.

¹ Under Local Rule 3.01(b), the Plaintiff and the Intervenor had 10 days after being served with the motion to file briefs or legal memorandum in opposition. Thus, this Court was unable to rule on the Defendant's motion until after the expert disclosure deadline had expired.

Accordingly, it is ordered and adjudged as follows:

- 1) The Defendant's Motion to Compel Mental Examination (Dkt. 31) is denied.
- 2) The Intervenor's Motion for Protective Order, Alternative Motion for Limited Mental Examination, and Motion for Fees and Costs (Dkt. 36) are denied as moot.
- 3) The Intervenor's Motion to Seal (Dkt. 38) is granted. The Clerk is directed to seal Exhibits A, B, E, and F to the Intervenor's Opposition to Motion to Compel.

DONE AND ORDERED at Tampa, Florida, on March 25, 2002.



RICHARD A. LAZZARA
UNITED STATES DISTRICT JUDGE

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