

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

CASE NO. 2:06-cv-444-FtM-34SPC

CHRISTIAN F. MEISTER,

Plaintiff,

v.

MIKE SCOTT in his official capacity as Sheriff of Lee County, Florida; MIKE SCOTT in his individual capacity as Sheriff of Lee County, Florida; DON HUNTER in his official capacity as Sheriff of Collier County, Florida; each of J.J. CARROLL, RICHARD SNYDER, RYAN JUSTHAM, STEPHAN PIERCE, GENE SIMS, PEDRO J. SOTO, MIKE JOHNSTON, each of the foregoing, jointly and severally,

Defendants.

PLAINTIFF'S MOTION FOR ENLARGEMENT OF TIME TO FILE A RESPONSE TO ALL DEFENDANT(S)' MOTIONS FOR SUMMARY JUDGMENT

Plaintiff Christian F. MEISTER, proceeding Pro Se, (hereinafter "MEISTER") hereby files PLAINTIFF'S MOTION FOR ENLARGEMENT OF TIME TO FILE A RESPONSE TO ALL DEFENDANT(S)' MOTIONS FOR SUMMARY JUDGMENT, and states as follows:

1. Defendants, on April 11, 2008, have filed Defendants' Snyder, Justham, Pierce, Sims, Soto, and Johnston, Motion for Summary Judgment and Memorandum of Law in Support thereof; Defendant, on April 11, 2008, has filed Defendant Scott's Motion for Summary Judgment and Memorandum of Law in Support thereof; Defendants, on April 11, 2008, have filed Defendants J.J. Carroll and Don Hunter's Motion for Summary Judgment, Statement of Undisputed Facts and Supporting Memorandum of Law.

2. Defendants have filed a total of three motions.

3. Plaintiff needs an additional amount of time in order to frame a response to each of the three motions for summary judgment because Plaintiff Meister, who is proceeding Pro Se, is not capable of crafting a response within the time prescribed in the Federal Rules of Civil Procedure in that the Plaintiff's skills are limited. The Plaintiff's skills are limited because Plaintiff Meister, who is proceeding Pro Se, is not a trained attorney and therefore lacks the skills in order to frame such a response within the prescribed limited time [FN-1051]. It takes the Pro Se Plaintiff a larger amount of time to complete the tasks which are required in order to complete the responses to said motions for summary judgment.

[FN-1051] The Federal Rules of Civil Procedures were created in order to manage litigation. Said rules, however, were intended to provide a reasonable time frame in which a trained professional, by the virtue of his or her training, was actually (humanly) capable of crafting a certain document within the promulgated time frames. Moreover, the Federal Rules of Civil Procedure or any other such Rules were written by attorneys (and judges) for attorneys. In other words: Defendants through Counsel are trained to operate within the Rules, the Plaintiff is not.

* * *

4. Relief is warranted in that the Plaintiff who is proceeding Pro Se is entitled to the same constitutional protections than the Defendants who are represented by an attorney are entitled to.

5. Plaintiff anticipates that he needs an additional 25 days in which to respond to the three of Defendants' Motions for summary judgment.

6. The Instant Motion is timely filed.

7. The undersigned certifies that this Motion is not requested solely for the purpose of harassment or delay. Further, no party will be prejudiced by the Granting of the extension of time.

8. In the event that Plaintiff's Instant Motion is denied, Plaintiff's rights will be severely prejudiced.

9. **Local Rule 3.01(g) certification:** The undersigned has contacted Defendants' Counsel Mr. SHEARMAN'S office, and Counsel Shearman stated that he will stipulate to a two-week extension.

10. **Local Rule 3.01(g) certification:** The undersigned has contacted Defendants' Counsel Mr. PIERRO'S office, and Counsel Pierro stated that he will not stipulate to any extension.

11. For the herein stated reasons, Plaintiff requests that this Court enlarge the time up to and including May 23, 2008.

12. Any of Plaintiff's Arguments and Citations of Authority located in footnotes are fully incorporated herein.

MEMORANDUM OF LAW

The Fourteenth Amendment of the United States Constitution

Relief is warranted in that the Plaintiff who is proceeding Pro Se is entitled to frame a response to the Defendants' motions even though Plaintiff Meister, in that he is not a trained attorney, needs a larger amount of time in which to craft the documents. This is so because the United States Constitution's Fourteenth Amendment Equal Protection Clause guarantees that all parties in an action of law be treated equally in an action of law, i.e., the Equal Protection Clause mandates that all parties in an action of law have an equal opportunity to bring or defend a lawsuit regardless of whether a party can or cannot afford to hire an attorney, i.e., the Equal Protection Clause mandates that all parties in an action of law have an equal opportunity to craft certain documents even though a plaintiff who is proceeding Pro Se requires an additional amount of time in order to craft such documents. The 14th Amendment states:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Plaintiff Meister is equally entitled to participate in this cause of action regardless of whether he is represented by an attorney. Meister is proceeding Pro Se because he cannot afford to hire an attorney. Meister, nevertheless, has the equal and inalienable right to litigate suit against the Defendants and craft the required documents even though Plaintiff needs an additional amount of time in which to complete the documents.

Furthermore, this Court not only has the broad discretionary power established by case law to Grant the Plaintiff's request for the needed extension of time but also has the legal obligation to take judicial action and step in in order to defend the Constitutional mandates of equal protection [FN-1001] and remedy the conflict especially in a case like this where the time frames promulgated by the Federal Rules of Civil Procedure conflict with the provisions of the Fourteenth Amendment's Equal Protection Clause.

[FN-1001] Additionally, the framers of the Constitution did not intend to discriminate against parties who are proceeding without an attorney. The framers did not intend to place plaintiffs in an unequal position in the constitutional sense because they could not afford to hire an attorney.

* * *

Moreover, this Court has the **legal authority** to remedy the conflict in that the Federal Rules of Civil Procedures are inferior to the provisions of the United States Constitution. Additionally, the Federal Rules of Civil Procedures are created and intended in order to manage pre-trial activities and bring litigation to a fair, just, and equal conclusion. See also **Rule 1.01(b) of the M.D. Fla. L.R.** (Local Rules “. . . shall be employed to provide **fairness** and simplicity in procedure . . . and to secure **just** . . . determination.”).

This Court has the legal authority to Grant Plaintiff's request for an extension of time in

that to do otherwise is to give preferential and unequal treatment to the Defendants who can craft the required documents in the time promulgated by the Rules because they, being that they are represented by an attorney, are capable of crafting the documents in the said amount of time and in that the Plaintiff is not capable of crafting the documents in the said amount of time in that he is not trained to do so. To do otherwise is to give preferential treatment to those who have the financial means to pay for the services of an attorney. In other words, the Plaintiff is entitled to the constitutional protections in that the Plaintiff is inherently situated in an unequal position from the onset because the Plaintiff is not trained to craft the documents in the same or similar amount of time than the Defendants can craft them and because the Plaintiff is not trained to craft the documents within the time frames proscribed by the Rules. It is the District Court's role as a gate keeper and as an enforcer of the constitutional mandates to level the playing field and to place the Plaintiff in an equal position in the constitutional sense by taking the Plaintiff and by placing him in a more equal position and/or in an equal position to the extent certainly possible.

The Seventh Amendment of the United States Constitution

Furthermore to deny the Plaintiff the request for an extension of time is to deny the Plaintiff his right to a trial and/or a trial by jury, adding that to deny the Plaintiff's right to a trial by jury is to inherently treat the Plaintiff unequally in a constitutional sense and in a manner which is prejudicial to the Plaintiff in that the Defendants through Counsel are capable of crafting certain documents within the time frame promulgated in the Federal Rules of Civil Procedure when Plaintiff Meister cannot craft such documents within said such time because he is not a trained attorney to do so.

If the Plaintiff is denied the opportunity to a trial by jury in regard to any one of Plaintiff's several causes of actions as a result of Plaintiff's failure to file the required document arising out

of the denial of the Plaintiff's request for the additional amount of time, the additional amount time of which enables the Plaintiff to craft and file the required document(s), Plaintiff Meister is denied his constitutionally guaranteed right to a trial by jury, and, as such, Plaintiff's rights would be severely prejudiced.

Regardless of whether a party in a litigation can or cannot afford to hire an attorney, each person, under the law, has the certain and inalienable right to litigate a cause of action. The Seventh Amendment of the United States Constitution specifically states that "[i]n Suits at common law . . . **the right of trial by jury shall be preserved**"

Furthermore, Rule 1.01(b) of the M.D. Fla. L.R. provides in pertinent part as follows:

Local Rules “. . . shall be employed to provide fairness and simplicity in procedure . . . and to secure just . . . determination.”

Rule 1.01(c) of the M.D. Fla. L.R. provides in pertinent part as follows:

“The Court may suspend application and enforcement of these rules, in whole or in part, in the interests of justice in individual cases by written order.”

Rule 6(b) of the Federal Rules of Civil Procedure provides in pertinent part as follows:

When “. . . by these Rules or notice given there under or by order of court, an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice order a period enlarged if request therefore is made before the expiration of the period originally prescribed”

By its express terms, the quoted rule affords wide discretion to this Court to enlarge a time period established by the Rule or a Court Order. See Woods v. Allied Concord Financial Corp., 373 F.2d 733 (5th Cir. 1967); Yanofsky v. Wernick, 362 F.Supp. 1005 (S.D.N.Y. 1973); Graham v. Brier, 418 F.Supp. 73 (S.D. Wis. 1976); *Moore's Federal Practice* sec. 608 (2d.Ed 1984). Rule 6 should be applied liberally “to secure the just . . . and inexpensive determination of every action.” District Courts possess broad discretion to manage their cases. Chrysler Int'l v.

Chenaly, 280 F.3d 1358, 1360 (11th Cir. 2002). This broad discretion encompasses the management of pre-trial activities. Id. Citing Johnson v. Bd. Of Regents of Univ. Georgia, 263 F.3d 1234, 1269 (11th Cir. 2001).

In this action, the interests of justice will be served by the extensions of time in order to complete the necessary tasks and to bring this lawsuit to a just conclusion. Relief is appropriate under the circumstances.

WHEREFORE, based upon the foregoing, Plaintiff MEISTER, proceeding Pro Se, hereby requests that this Court Grant PLAINTIFF'S MOTION FOR ENLARGEMENT OF TIME TO FILE A RESPONSE TO ALL DEFENDANT(S)' MOTIONS FOR SUMMARY JUDGMENT and Grant an extension of time in which to respond to the herein stated Defendant (s)' Motions by, up to and including, May 23, 2008, and such other and further relief as is deemed appropriate by this Court.

RESPECTFULLY SUBMITTED

CHRISTIAN F. MEISTER, Pro Se

CHRISTIAN F. MEISTER
PO Box 570 291
Miami, FL 33257

Date: April 25, 2008

CERTIFICATE OF SERVICE

I certify that a copy of the document has been served, by First Class, United States Mail, properly addressed and postage prepaid, to the following counsel of record: (1) Robert C. Shearman, Post Office Box 280, Fort Myers, Florida 33902-0280; (2) Richard M. Pierro, Mark E. Levitt, 324 S. Hyde Park Avenue, Suite 225 Tampa, Florida 33606-4127.

Date: April 25, 2008

CHRISTIAN F. MEISTER, Pro Se

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