

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION  
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In re )  
)  
DONALD WAYNE MATTHEWS, JR., ) Case No. 6:13-bk-14761-KSJ  
) Chapter 7  
Debtor. )  
\_\_\_\_\_)  
  
GIOVANNA MATTHEWS and )  
GREGORY LEPERA, )  
)  
Plaintiffs, )  
vs. ) Adversary No. 6:14-ap-00024-KSJ  
)  
DONALD WAYNE MATTHEWS, JR., )  
)  
Defendant. )  
\_\_\_\_\_)

**ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION**

Plaintiffs, Giovanna Matthews and Gregory Lopera, seek reconsideration of this Court's August 6, 2014 order<sup>1</sup> partially denying the Plaintiffs' motion to compel<sup>2</sup> discovery from a non-defendant, Jodi Matthews ("Jodi").<sup>3</sup> As basis for reconsideration, the Plaintiffs argue Jodi Matthews, the Debtor/Defendant's wife, committed fraud on the Court, lied in her depositions, and generally stymied their discovery efforts against her. Jodi disputes these allegations and argues the Plaintiffs belatedly are seeking to reopen discovery after the discovery deadline has passed.

<sup>1</sup> Doc. No. 32.

<sup>2</sup> Doc. No. 19.

<sup>3</sup> Motion for Reconsideration, Doc. No. 98.

The Court first notes that the Plaintiffs' motion is not properly cast as a motion for reconsideration. In its original order denying the Plaintiffs' motion to compel discovery, the Court stated: "To the extent this Order partially denies the Motion, such denial is without prejudice."<sup>4</sup> Because the Court simply denied the Plaintiffs' requested relief without prejudice, the Plaintiffs were free to file a renewed motion to compel as soon as they obtained further evidence linking Jodi to their claims against the Defendant. Plaintiffs instead waited to file this motion to reconsider the Court's prior order after the discovery deadline has passed.

If properly viewed as a renewed motion to compel, the Plaintiffs did not timely seek their requested relief and provide no reason for their delay. The Court set a deadline for completion of all discovery of January 16, 2015.<sup>5</sup> Plaintiffs did not file the present motion until January 29, 2015. All evidence attached to the present motion was available *prior* to the discovery deadline.

Plaintiffs now ask the Court to effectively extend the discovery deadline, compel Jodi to produce a litany of documents, and allow them an additional 60 days to take yet another deposition of Jodi. A two day trial is set to start on June 9, 2015.<sup>6</sup> Plaintiffs' motion smacks of an effort to circumvent the Court's discovery deadline. Discovery deadlines are vital to keeping cases on track, especially cases where a trial date already is set. The Court will not expand discovery.

If the Plaintiffs' motion is treated as one for reconsideration, the Plaintiffs' request still fails. Federal Rule of Civil Procedure 60(c) requires that a motion for reconsideration "be made within a reasonable time."<sup>7</sup> The same reasoning stated above shows that this motion was not made within a reasonable time: the grounds for the Plaintiffs' requests were apparent prior to the

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<sup>4</sup> Doc. No. 32 ¶ 6.

<sup>5</sup> Doc. No. 65 ¶ 5.

<sup>6</sup> Doc. No. 108.

<sup>7</sup> Fed. R. Civ. P. 60(c).

discovery deadline of January 16, 2015. To reopen discovery under the guise of a motion for reconsideration would render the discovery deadline meaningless.

Moreover, the Plaintiffs do not identify any ground justifying reconsideration. Plaintiffs' brief paragraph of analysis mentions "fraud on the court," but they also cite Rule 60(b)(3), which allows reconsideration for "fraud . . . misrepresentation, or misconduct by an opposing party."<sup>8</sup> The two concepts are distinct.<sup>9</sup> Further, the purportedly fraudulent grounds the Plaintiffs base their request on were or should have been apparent long before the discovery deadline. Plaintiffs will have ample opportunity to cross-examine Jodi at trial. Plaintiff failed to show any basis for additional discovery or extension of the discovery deadline.

The Court accordingly denies the Plaintiffs' motion for reconsideration.<sup>10</sup>

DONE AND ORDERED in Orlando, Florida, on April 15, 2015.

A handwritten signature in black ink, appearing to read "Karen S. Jennemann" with a small "R.O." written above the end of the signature.

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KAREN S. JENNEMANN  
Chief United States Bankruptcy Judge

Barbara Joyner is directed to serve a copy of this Order on interested parties and file a proof of service within 3 days of entry of the Order.

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<sup>8</sup> Fed. R. Civ. P. 60(b)(3).

<sup>9</sup> *Rozier v. Ford Motor Co.*, 573 F.2d 1332, 1338 (5th Cir. 1978).

<sup>10</sup> Doc. No. 98.