

2000 WL 303222

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United States District Court, D. Connecticut.

Leo McCOY et al.,

v.

Michael BELMONT et al.

No. 3:85CV465(JGM). | March 1, 2000.

Opinion

RULING ON PLAINTIFFS' REQUEST TO REOPEN HEARING

MARGOLIS.

*1 Although familiarity with the complex legal and procedural history of this protracted litigation is presumed, a summary of facts relevant to this request follows. On July 7, 1999, new counsel filed an appearance for plaintiffs and the prior attorney of record filed a motion for withdrawal, which the Court granted. (Dkts. 272–73.) By letter, plaintiffs have expressed their dissatisfaction with numerous conclusions and recommendations proposed by the Special Master, Professor Skarnulis. (Letter to Court, dated July 26, 1999.) A lengthy settlement/status conference was held before this Magistrate Judge on July 28, 1999, extending the deadline by which the parties were to file formal objections to the Special Master's report to September 3, 1999. (See Dkts. 263, 271 & 278.)

Pursuant to Federal Rule of Civil Procedure 53(e)(2), the Court also scheduled an evidentiary hearing on whether it should adopt Professor Skarnulis' recommendations, to commence on September 27, 1999. (See Dkt. # 278.) On that day, plaintiffs' counsel stated that they were not prepared to go forward with the hearing, which was then rescheduled to November 15, 1999. (See Dkt. # 296.) The hearing instead commenced on November 15 and adjourned on November 18, 1999. (See Dkts. 302–07.) At

that time, plaintiffs' counsel orally requested another continuance because one of their proposed witnesses, Dr. Leslie Rubin, was not available. The Court provided four dates in December on which it could hear Dr. Rubin's testimony.

On January 19, 2000, the Court issued an Order, deeming the hearing closed because plaintiffs had not contacted either the Court or defendants regarding the scheduling of Dr. Rubin's testimony. (See Dkts. 310 & 312 at 2.) On January 24, 2000, plaintiffs filed the pending Request to Reopen Hearing, seeking to schedule Dr. Rubin's testimony for February 23, 2000 (Dkt. # 311) to which defendants filed an objection (Dkt. # 312).

I. DISCUSSION

In their motion, plaintiffs indicate that Dr. Rubin's testimony will take approximately two (2) hours and is necessary for the "fair adjudication of the [] case." (Dkt. # 311 at 1–2.) In opposition, defendants counter that plaintiffs have already received numerous extensions, that the present record is sufficient, and that Dr. Rubin's testimony "would likely be cumulative and does not justify the reopening of this hearing." (Dkt. # 312 at 2.)

Federal Rule of Civil Procedure 59(a) permits the Court to hear additional testimony at its discretion. As detailed above, plaintiffs have received numerous extensions and postponements. There was ample opportunity to schedule Dr. Rubin's testimony in December. In the interests of justice and the McCoy men, whose pressing health and daily care needs are at issue in this litigation, the Court *denies* plaintiffs' request. The parties shall comply with the briefing schedule outlined in the Court's Order dated January 19, 2000. (See Dkt. # 310.)

II. CONCLUSION

*2 In conclusion, for the reasons stated above, plaintiffs' Request to Reopen Hearing (Dkt.# 311) is *denied*.