

UNITED STATES COURT  
SOUTHERN DISTRICT OF FLORIDA

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	:	
IN RE UNITED STATES SUGAR,	:	
CORPORATION LITIGATION	:	Master File No.
	:	08-80101-CIV-MIDDLEBROOKS
	:	
_____	x	

**OMNIBUS ORDER [DE 152, 153, 156, 157, 158]**

THIS CAUSE comes before the Court on Plaintiffs’ motion for a 90-day continuance of the trial date [DE 152] filed on November 5, 2008; Plaintiffs’ motion for a status conference and/or hearing [DE 153] filed on November 5, 2008; Defendant’s motion for a modification of the expert discovery schedule and a status conference and/or hearing [DE 156] filed on November 6, 2008; Plaintiff’s motion for a limited appearance [DE 158] filed on November 7, 2008; and Defendants’ renewed motion for a hearing on defendants’ motion to dismiss [DE 157] filed on November 11, 2008. I have reviewed the record and am otherwise fully advised in the premises.

In their motion to continue trial [DE 152], Plaintiffs state that the proposed deal (the “Deal”), in which the South Florida Water Management District (“SFWMD”) would purchase land from U.S. Sugar, will impact the Plaintiffs’ claims. Specifically, if the outcome of the deal is satisfactory to the Plaintiffs, the Deal would effectively moot their claims relating to the Lawrence Group’s offer, the number of fact witnesses would be reduced, and the scope of discovery would be narrowed. Citing U.S. Sugar’s CFO’s Declaration [DE 22-23], plaintiffs further state that the deal will probably not close until April of 2009.

Pursuant to the April 8, 2008 Order [DE 60], the trial is currently set for March 30, 2009,

therefore, a 90-day continuance would most likely give the parties time to pursue a settlement as a result of the expected resolution of the Deal in April of 2009. Defendants do not oppose the 90-day continuance. For good cause shown, in order to conserve judicial resources, it is appropriate to grant Plaintiffs' motion. The modified trial date and schedule will follow at the end of this order, and will be subject to the Court's modification based on the progress, or lack thereof, of the Deal. The parties shall periodically update the Court as to the status of the Deal to the best of the parties' knowledge. The Court notes that a 90 day continuance of the trial does not postpone the new discovery schedule until after the supposed closing of the Deal in April, nor does it postpone the deadline to amend pleading until after the closing of the Deal. Therefore, this continuance does not solve all the problems enumerated in plaintiffs' motions, however; I am reluctant to grant plaintiffs' motion for continuance, and unwilling to allow plaintiffs more time than asked for in their motion, as this action cannot continue indefinitely, based in part, on the actions of a third-party.

This Order does not change the status of Defendants' pending motions to dismiss. Plaintiffs and Defendants must respond to the deadlines pursuant to this Court's Order of November 5, 2008.

Defendants have jointly moved for the modification of the expert discovery schedule to require the identification of experts and production of their reports first, followed by depositions, as suggested by Fed. R. Civ. P. 26(a)(2), (b)(4)(A) [DE 156]. The modified scheduling order that follows grants defendants' motion as to the order of the expert discovery.

Defendants also move for a scheduling conference and/or hearing on the trial-related deadlines [DE 156], but a hearing is not appropriate at this time. Therefore, it is hereby

ORDERED AND ADJUDGED that Plaintiff's motion for a continuance of trial date and pre-trial deadlines [DE 152] is GRANTED, and Defendants' motion for modification of discovery deadlines [DE 156] is GRANTED. The deadlines and trial date are amended as provided herein:

1. The trial of this matter shall be reset to the two-week docket commencing **June 22, 2009**.
  2. Calendar Call shall be reset to **June 17, 2009** at the same time and location as set forth in the Court's previous Notice of Calendar call;
  3. Joinder of Additional parties and Amended Pleadings are due by **January 12, 2009**.
  4. **February 9, 2008**: Plaintiff shall furnish opposing counsel with a written list containing the name of all expert witnesses intended to be called at trial and only those expert witnesses listed shall be permitted to testify. Within the fourteen day period following this disclosure (on or before February 23, 2009), the plaintiff shall make its experts available for depositions by the defendant.
  5. **February 23, 2009**: Plaintiff shall furnish opposing counsel with summaries of their expert witnesses' anticipated testimony or written expert reports in accordance with S.D. Fla. L.R. 16.1.K. Defendant shall furnish opposing counsel with a written list containing the name of all expert witnesses intended to be called at trial and only those expert witnesses listed shall be permitted to testify. Within the fourteen day period following this disclosure (on or before March 9, 2009), the plaintiff shall make its experts available for depositions by the defendant.
  7. **March 9, 2009**: Defendant shall furnish opposing counsel with summaries of their expert witness' anticipated testimony or written expert reports in accordance with S.D. Fla. L.R. 16.1.K. Parties shall furnish opposing counsel with a written list containing the names and addresses of all witnesses intended to be called at trial and only those witnesses listed shall be permitted to testify.
  8. Discovery shall be completed no later than **April 6, 2009**.
  9. All Pretrial Motions and Memoranda of Law shall be filed no later than **April 20, 2009**.
  10. Joint Pretrial Stipulation must be filed and Designations of Deposition Testimony must be made on or before **May 25, 2009**.
  11. Objections to designations of deposition testimony must be filed no later than **June 8, 2009**.
- and
12. The Parties shall file their proposed Jury Instructions or Finding of Fact and Conclusions of Law, which ever is applicable, on or before **June 15, 2009**.

Any and all other provisions fo the Court's prior Scheduling Order not specifically addressed

herein remain in full force and effect, including, but not limited to, requirements for pretrial mediation. There will be no extensions of the deadlines set forth herein absent truly exigent circumstances. It is further

ORDERED AND ADJUDGED that Plaintiffs' motion for a status conference and/or hearing [DE 153] is DENIED. It is further

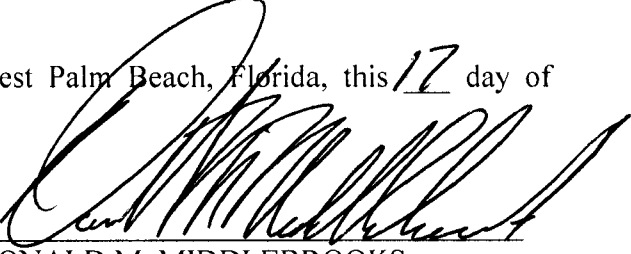
ORDERED AND ADJUDGED that Defendants' motion for a status conference and/or hearing [DE 156] is DENIED. It is further

ORDERED AND ADJUDGED that Defendants' motion for oral argument on Defendants' motions to dismiss [DE 157] is DENIED WITHOUT PREJUDICE. After the motions for dismissal [DE 143, 145, 146, 147, and 148] are fully briefed, the Court will determine whether a hearing on the motions is necessary. It is further

ORDERED AND ADJUDGED that Plaintiffs' motion for limited appearance [DE 158] is GRANTED. It is further

ORDERED AND ADJUDGED that the parties shall submit to the Court a brief, concise statement as to the status of the proposed Deal **60 days from the entry of this order, and again 60 days thereafter.**

DONE AND ORDERED in Chambers at West Palm Beach, Florida, this 17 day of November, 2008.

  
DONALD M. MIDDLEBROOKS  
UNITED STATES DISTRICT JUDGE

Copies to counsel of record