

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION**

**CASE NO. : 07-60534-CIV-DIMITROULEAS  
MAGISTRATE JUDGE: ROSENBAUM**

HOWARD K. STERN,

Plaintiff,

vs.

JOHN M. O'QUINN and  
JOHN M. O'QUINN & ASSOCIATES PLLC  
d/b/a The O'Quinn Law Firm

Defendants.

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**PLAINTIFF'S MOTION FOR RECONSIDERATION OF UNOPPOSED MOTION FOR  
ENLARGEMENT OF TIME TO FILE A  
RESPONSE TO DEFENDANTS' DISPOSITIVE MOTION**

NOW COMES Plaintiff Howard K. Stern and hereby respectfully moves this Court to reconsider its Order of October 1, 2008, granting in part Plaintiff's Unopposed Motion for Enlargement of Time to File A Response to Defendants' Dispositive Motion ("Motion Enlargement of Time") [DE 199]. In support of this Motion for Reconsideration, Stern shows the following:

1. Stern properly noticed the depositions of John M. O'Quinn, Don Clark and Wilma Vicedomine to be completed prior to the close of discovery on September 19, 2008.
2. The sole reason Stern extended the time in which those three depositions would be taken beyond the close of discovery was as a matter of professional courtesy due to Defendants' alleged scheduling conflict with the noticed dates.

3. Lead counsel for Defendants has conceded that, because the depositions were duly noticed for completion during the discovery period, Stern could bring a motion to compel the deponents' attendance at the duly noticed depositions:

I have never argued – and have never seen anyone argue – that you cannot move to compel a better response to discovery which was otherwise timely propounded, or to overrule objections, merely because the discovery responses were ultimately provided subsequent to the discovery cut off deadline. Theoretically, that would obviate any ongoing obligation to comply with existing discovery requests, and would essentially require all parties to propound discovery more than thirty days in advance of the discovery cut off. I should also point out that I would never argue that a motion to compel was untimely simply because the motion itself was filed after the discovery cut off, so long as the discovery itself was timely.

(A true and correct copy of correspondence from Robert Klein to Lin Wood, dated September 17, 2008, is attached hereto as Exhibit A.)

4. Rather than burden the Court with additional discovery motions, counsel for Stern sought to accommodate counsel for Defendants. Stern should not be penalized by this Court for his counsel's extension of a professional courtesy to opposing counsel.

5. A slander plaintiff carries an extraordinary burden when seeking to establish his or her case against a defendant. To deprive a slander plaintiff of depositions essential to establishing a full record of actual malice, where such depositions were appropriately noticed for completion prior to the close of discovery, is an abuse of discretion.

WHEREFORE, Stern respectfully requests that this Court:

a. Reconsider its Order of October 1, 2008, granting in part Plaintiff's Motion Enlargement of Time [DE 199]; and,

b. Order Defendants to make Mr. O'Quinn, Don Clark and Wilma Vicedomine available for deposition by October 23, 2008.

Dated: October 1, 2008.

/s/ L. Lin Wood

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*Attorneys for Plaintiff*  
*Howard K. Stern*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 1, 2008, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

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*Attorneys for Defendants*

This 1st day of October, 2008.

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