

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

KIMBERLY EVERSON,
Personal Representative for the
Estate of Jamesel Robinson,

Plaintiff,

v.

MEDLANTIC HEALTHCARE GROUP,

Defendant.

Civil Action No. 00-226 (JMF)

MEMORANDUM ORDER

This case was referred to me, after consent of the parties, for all purposes including trial. The Pretrial Conference in this case is scheduled for February 13, 2006 and the trial for February 20, 2006. Currently pending before me are five motions *in limine*: Plaintiff's Motion to Use Deposition at Trial [#51]; Defendant's Motion in Limine to Exclude Hearsay Testimony and Duplicative Witnesses [#52]; Defendant's Motion in Limine to Exclude All Evidence and Testimony Related to Plaintiff's Dangerous Working Condition Claim [#53]; Motion in Limine to Exclude the Trial Testimony of Anne Shellswick [#54]; Defendant's Motion in Limine to Exclude Trial Testimony of Drs. Oswald G. Warner and Richard A. Wilson [#55]. For the reasons discussed below, it is, hereby **ORDERED** that all five motions *in limine* are stricken as untimely.

DISCUSSION

The Pretrial Procedures Order issued in this case provides the following instructions with regard to motions *in limine*:

The parties shall file any motions *in limine* no later than fifteen (15) calendar days prior to the date of the pretrial conference; oppositions shall be due no later than ten (10) days prior to the pretrial conference; and replies shall be due no later than five (5) days before the pretrial conference. Counsel are to deliver courtesy copies of these submissions directly to chambers.

Pretrial Procedures Order, C.A. No. 00-226, Docket Entry 28 (May 13, 2005). Because the Pretrial Conference is scheduled for February 13, 2006, the parties should have filed their motions *in limine* by January 29, 2006.¹ However, all five of the motions currently before me were filed on February 2, 2006. More importantly, not one of those motions contained a request under Rule 6(b)(2) of the Federal Rules of Civil Procedure for an enlargement of time. As the court of appeals recently explained in Smith v. District of Columbia, 430 F.3d 450 (D.C. Cir. 2005), it is an abuse of the court's discretion to consider an untimely motion in the absence of a motion for an extension. Smith, 430 F.3d at 457. Accordingly, I cannot consider any of the untimely motions *in limine* and they must be stricken from the record.

SO ORDERED.

JOHN M. FACCIOLA
UNITED STATES MAGISTRATE JUDGE

Dated:

¹ The court notes that January 29 was a Sunday, so the parties should have, at the latest, filed their motions by Monday, January 30.