

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BARRY AVIATION, INC.

Plaintiff,

v.

LAND O'LAKES MUNICIPAL
AIRPORT COMMISSION, *et al.*

Defendants.

ORDER

02-C-635-C

On December 15, 2004, plaintiff moved for an extension of its deadline to name experts, claiming that in October defendants declined to engage in discovery until the court decided their motion to dismiss. One thing led to another, and here we are in December with a *new* motion to dismiss that won't even be fully briefed until mid-January, 2005. Defendants did not respond to plaintiff's scheduling motion.

At this point, both sides are at fault for having monkey-wrenched the latest schedule. Defendants had no power unilaterally to declare a discovery moratorium while their dismissal motion was pending, but plaintiff didn't bring this power play to the court's attention with a timely motion to compel. I get the sense that each side has its own agenda and neither corresponds completely with the court's. That's about to end.

I am re-calendaring this case for the last time. With the exception of the briefing schedule on the pending motion to dismiss, all dates remaining on the schedule are stricken. The new trial date will be either August 8, 2005, August 22, 2005 or September 19, 2005. The

parties may have until January 3, 2005 within which to advise the court in writing which date they jointly prefer. If they cannot agree on one of these three dates, then the court will impose one and set the remainder of the schedule using its usual formula. At this juncture, any claims of conflict or inconvenience are mere cavils that this court will not countenance.

Entered this 27th day of December, 2004.

BY THE COURT:

STEPHEN L. CROCKER
Magistrate Judge