

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

NICCI SMITH,

Plaintiff,

CASE NO.: 07-2269-KHV-GLR

v.

NATIONS RECOVERY CENTER INC.,

Defendant.

ORDER

Pending before the Court is Defendant's Motion to Compel Mediation (doc. 25). Defendant requests that the Court enter an order to require participation in mediation by the parties on December 17, 18 or 19, 2007; that the discovery deadline of December 31, 2007, be continued to January 25, 2008; and that the Pretrial Conference set for January 10, 2008, be continued to February, 2008. In response, Plaintiff opposes the motion and moves the Court to require Defendant to produce its representative and collectors for depositions in Atlanta, Georgia, on December 18 and 19, 2007 (doc. 28).

Upon consideration of the motions and briefing by the parties, the Court sustains Defendant's Motion in part, overrules it in part, and sustains the motion of plaintiff. The Court finds that counsel for both parties have tried and been unable to schedule mediation within the deadline of November 16, 2007, set forth in the Scheduling Order. As Plaintiff contends, it may be more economical to require mediation before depositions. But not necessarily so. Often it is more economical for discovery to precede mediation. In this case, Defendant has not persuasively shown that mediation should necessarily precede the depositions. The parties have had adequate opportunity to schedule their

mediation. Their deadline has passed. The Court may reset it. The deadline for discovery approaches. The Court finds no persuasive reason now to defer depositions Plaintiff has already scheduled in Atlanta on December 18 and 19, 2007, particularly in view of the arrangements and expense already committed for court reporters, videotaping, and non-refundable flight tickets, as well as the several deadlines set by the Scheduling Order.

Given the trial setting of May 6, 2008, the Court will sustain Defendant's motion (doc. 25) in part and extend the discovery deadline to **January 7, 2008**. That motion is otherwise overruled and the pretrial conference remains set for January 10, 2008. The Court will further sustain Plaintiff's motion (doc. 28) that Defendant be required to produce its representative and collectors for depositions in Atlanta, Georgia, on December 18 and 19, 2007.

IT IS SO ORDERED.

Dated in Kansas City, Kansas on this 7th day of December, 2007.

s/Gerald L. Rushfelt
Gerald L. Rushfelt
United States Magistrate Judge