

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

GENERAL CONFERENCE CORPORATION OF
SEVENTH-DAY ADVENTISTS, et al.,

PLAINTIFFS,

VS.

NO. 06-1207-JDB

WALTER MCGILL d/b/a CREATION SEVENTH
DAY ADVENTIST CHURCH, CREATION 7TH DAY
ADVENTIST CHURCH, et al.,

DEFENDANTS.

ORDER DENYING DEFENDANTS' MOTION TO AMEND PRETRIAL ORDER

Before the Court is the motion of the Defendants to amend the pretrial order, specifically, to delete the requirement for a settlement conference before United States Magistrate Judge Diane K. Vescovo, which had been scheduled for July 15, 2008. On May 30, 2008, the Court conducted a telephone status conference with all of the attorneys in this lawsuit. According to the minutes entered on that date, all parties agreed to mediation and this Court requested that Magistrate Judge Vescovo conduct the conference. The Court referred the matter to Judge Vescovo for that purpose.

Judge Vescovo sent a letter to the attorneys on June 3, 2008, setting the settlement conference for July 15, 2008, in Memphis, Tennessee. On July 24, 2008, this motion to amend the pretrial order was submitted by Attorney Ronald D. Michael, who has since withdrawn as attorney for the Defendants. According to Michael, the Defendant, Walter McGill, claims that he was unable to be present at the mediation due to his being out of the country on a church mission trip. Furthermore, he claimed that he will be unable to return the United States for

mediation and does not want to participate in one.

The Court believes that inasmuch as Mr. McGill and his attorneys are subject to the jurisdiction of this Court and that both Plaintiffs' and Defendants' counsel, in good faith, agreed to this mediation, the Court concludes that such undertaking would be beneficial to the possible resolution of some, if not all, of the issues in this case. The fact that one of the parties does not believe that it would be worthwhile does not convince the Court that mediation should not be undertaken.

Consequently, the motion of the Defendants to amend the pretrial order is DENIED. The parties are directed to confer with Judge Vescovo and to reset the mediation prior to the trial date, which is currently scheduled on October 6, 2008. Failure of any party to personally and in good faith participate in this mediation conference as the Court has directed may result in sanctions, including either dismissal of the lawsuit or default judgment against the offending party being entered.

IT IS SO ORDERED this 25th July, 2008.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE