

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

CEDRIC ARNETT, et al.

Plaintiffs,

v.

No. 2:01-cv-02149-STA-egb

**DOMINO'S PIZZA I, L.L.C., d/b/a
DOMINO'S PIZZA, and DOMINO'S
PIZZA, INC., d/b/a DOMINO'S PIZZA,**

Defendant.

**ORDER DENYING
PLAINTIFFS' COUNSEL'S MOTION TO SCHEDULE MEDIATION**

On May 15, 2008, Plaintiffs' counsel filed their Motion to Schedule Mediation Pursuant to Order Entered February 25, 2008 (Doc. 188). Defendants filed their Response and Supplemental Opposition on May 22, 2008 and October 21, 2008, respectively. For the reasons set for below, Plaintiffs' Counsel's Motion to Schedule Mediation is DENIED.

Plaintiffs' Counsel's Motion to Schedule Mediation and Memorandum in Support, consisting of two sentences collectively, request mediation and purport to rely on the February 25, 2008 Order in this case. However, that Order is an Order of Reference, which referred Defendant's Motion Requesting Satisfaction of Sanctions Awarded by the Court to the Magistrate Judge for mediation. Upon receiving the referred Motion, the Magistrate Judge, in his discretion, entered an Order on April 21, 2008 Granting Defendant's Motion Requesting Sanctions, rather than mediating the issue (Doc. 186). In that Order the Court noted that "Plaintiffs' counsels' conduct unreasonably and vexatiously multiplied the proceedings and fell

short of the obligations owed as members of the bar.” (Order at 4). Accordingly, the Court found that “[b]ased upon the District Judge’s previous Order imposing sanctions and awarding fees, and pursuant to 28 U.S.C. § 1927 the Court orders Plaintiffs’ counsel to personally assume responsibility for payment of the fees and expenses incurred from the District Court’s Order at D.E. # 116 forward relating to Motions to Withdraw. Plaintiffs are ordered to pay the rest of the fees and costs incurred by Defendant in responding to these motions.” (Order at 5). The Court ordered Defendants to submit an affidavit of fees and expenses within fifteen days, which they timely submitted.

Rule 72(a) of the Federal Rules of Civil Procedure states:

Within 10 days after being served with a copy of the magistrate judge’s order, a party may serve and file objections to the order; a party may not thereafter assign as error a defect in the magistrate judge’s order to which objection was not timely made. The district judge to whom the case is assigned shall consider such objections and shall modify or set aside any portion of the magistrate judge’s order found to be clearly erroneous or contrary to law.

Pursuant to Rule 72, counsel for Plaintiffs had ten days to file objections to the April 21, 2008 Order. Likewise, Local Rule 72.1(g) states that an appeal from an order of a magistrate judge shall be filed within ten days after the order has been entered. Had Plaintiffs’ counsel wished to object to that Order, they should have done so. However, Plaintiffs’ counsel failed to object within ten days, or any time thereafter. Consequently, Plaintiffs’ counsel, having failed to properly and timely object to the April 21, 2008 Order, have waived any objections. Because the issue raised in Plaintiffs’ Counsel’s Motion to Schedule Mediation, namely the fees and expenses Plaintiffs’ counsel must assume responsibility for, has already been decided by this Court, Plaintiffs’ Counsel’s Motion to Schedule Mediation is DENIED. Plaintiffs’ counsel is

ORDERED to satisfy the sanctions set forth in the April 21, 2008 Order within ten days of receipt of this Order.

IT IS SO ORDERED.

s/ Edward G. Bryant
EDWARD G. BRYANT
UNITED STATES MAGISTRATE JUDGE

Date: March 5, 2009