

**IN THE CIRCUIT COURT OF                      COUNTY, MISSISSIPPI**

**PLAINTIFF**

**VS.**

**CAUSE NO.**

**DEFENDANTS**

**MOTION TO RE-SET HEARING**

COMES NOW Plaintiff,                      by and through his/her attorneys and files this his/her Motion to Re-Set Hearing and in support thereof states the following:

1.

A Scheduling Order was entered in this case on                      , 20                      . Pursuant to said Scheduling Order the discovery deadline is                      , 20                      . Further, the Scheduling Order provides that the Motion deadline is                      , 20                      and a hearing for any Motions filed is preset for                      , 20                      .

2.

On or about                      , 20                      , Defendant,                      filed a Motion to Dismiss or in the Alternative, for Summary Judgment. Without consulting Plaintiff's attorneys,                      noticed the hearing for                      ,                      , 20                      .

3.

Presently, Plaintiff and Defendant are actively engaged in discovery. Plaintiff has propounded Requests for Production of Documents to Methodist and is in the process of preparing Interrogatories for submission to                      . Furthermore, Plaintiff has propounded discovery to the other Defendants and is scheduled to take the deposition of                      on                      , 20                      , provided said Defendant has fully responded to discovery. Moreover, pursuant to the Scheduling Order, Plaintiff is entitled to continue discovery efforts through                      , 20                      .

4.

A hearing on [redacted] Motion prior to the end of discovery is premature and would be prejudicial to Plaintiff. Plaintiff is entitled to complete discovery before being required to respond to and have a hearing on the Motion to Dismiss, or in the Alternative, for Summary Judgment filed by [redacted]. The very purpose for discovery is to allow the parties to fully explore and develop their cases. The granting of a motion to dismiss is not proper unless there are no facts under which the defendant could be liable and the granting of a motion for summary judgment is not proper unless there are no dispute as to the material facts and the moving party prevails as a matter of law. Until Plaintiff has had the full period of time for discovery, as agreed to by the parties, he/she cannot adequately determine there are material facts at issue and whether under facts, as determined through discovery, a cause of action exists against [redacted].

5.

In addition, a dismissal might result in any claims, which Plaintiff has against [redacted] being barred by the statute of limitations. Such a result would be harsh and extremely unfair to Plaintiff until he/she has had an opportunity to complete discovery. In contrast, [redacted] would not be harmed or prejudiced in any way by re-setting the hearing of its Motion for [redacted], 20 [redacted] when any other pretrial and dispositive motions in this matter will be heard. Moreover, continuing [redacted] Motion to [redacted], 20 [redacted] will result in judicial economy for the Court and reduce the costs of litigation on the parties.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, [redacted], moves this Court to re-set the hearing on the Motion to Dismiss, or in the Alternative, for Summary Judgment filed herein by Defendant, [redacted], for [redacted], [redacted], at [redacted] : [redacted] a.m./p.m. or such other time after the deadline for discovery as the Court shall deem appropriate.

RESPECTFULLY SUBMITTED, this the            day of            , 20            .

By:

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ATTORNEY FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

I,            , attorney for Plaintiff,            , do hereby certify that I have forwarded this date, a true and correct copy of the above and foregoing MOTION TO RE-SET HEARING, by U.S. Mail, postage fully prepaid, to

THIS, the            day of            , 20            .

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