

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

MEMBER WILLIAMS, Plaintiff, vs. KISLING, NESTICO & REDICK, LLC, <i>et al.</i> , Defendants.	Case No. CV-2016-09-3928 Judge Todd McKenney
PLAINTIFF'S MOTION TO STAY SUMMARY JUDGMENT PROCEEDINGS	

Defendants have prematurely filed a motion for summary judgment based on 44 deemed admissions that Named Plaintiff has since moved to withdraw and amend. *See* Defendants' Motion for Summary Judgment at 1 ("Because Plaintiff has admitted all of Defendants' First Sets of Requests for Admissions, there is no genuine issue of material fact for the jury to decide on the claims asserted in the Complaint."). Because the Court should permit Plaintiff to withdraw and amend her admissions under Civ. R. 36(B), the admissions on which Defendants' summary-judgment motion is based should be rendered a nullity. *See* Plaintiff's Motion to Withdraw and Amend Admissions. Therefore, the Court should stay summary judgment proceedings until the parties have had "adequate time for discovery" so that this case may be properly resolved on its merits. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *Perotti v. Ferguson*, 7 Ohio St.3d 1, 3, 454 N.E.2d 951 (1983) ("It is a basic tenet of Ohio jurisprudence that cases should be decided on their

merits.”); *See also Fifth Third Bank v. Meadow Park, LLC*, 12th Dist. Clinton No. CA2015-07-012, 2016-Ohio-753, ¶¶ 26-30 (“[I]t has long been established that a trial court has wide discretion in control of its own docket and regulating the proceedings before it.”); *Stevens v. Cox*, 6th Dist. Wood No. WD-08-020, 2009-Ohio-391, ¶ 41 (“The trial court did not abuse its discretion by setting a new deadline for summary judgment motions to be filed, since the result was to allow the resolution of the parties' dispute on the merits, and not on procedural grounds.”);

Granting the requested stay would not prejudice anyone, as Defendants would still have every opportunity to move for summary judgment in the ordinary course of this litigation. For these reasons, and those stated in Plaintiff's Motion to Withdraw and Amend Admissions filed concurrently with this motion, the Court should allow Plaintiff to withdraw and amend her admissions, and schedule a date for summary judgment motions to be filed after the parties have had adequate time for discovery. Alternatively, should the Court deny Plaintiff leave to withdraw and amend her admissions, it should grant Plaintiff 14 days from such denial in which to respond to Defendants' summary-judgment motion.

Dated: November 14, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

The foregoing document was served on all necessary parties by operation of the Court's e-filing system on November 14, 2016.

/s/ Peter Pattakos
One of the Attorneys for Plaintiff