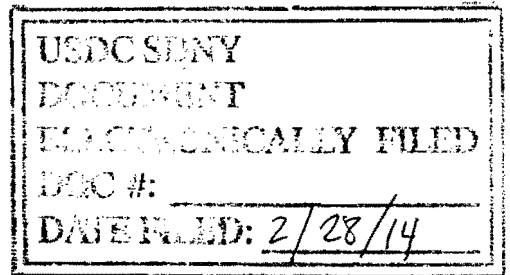


**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**



----- X
ANTHONY OLIPHANT,

Plaintiff,

- against -

ROBERT VILLANO, et al.,

Defendants.
----- X

ORDER

09 Civ. 862 (SAS)

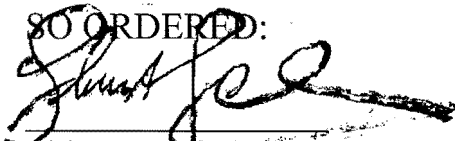
SHIRA A. SCHEINDLIN, U.S.D.J.:

On February 24, 2014, just five business days before trial, defendants filed a motion for leave to amend their answer to add a statute of limitations defense for the first time with respect to the intentional tort claims. On February 26, 2014, I denied that motion, noting that defendants had almost a year to file their motion but neglected to do so until a week before trial. I also noted that adding an affirmative defense on the eve of trial might prejudice plaintiff.

On February 27, 2014, only two business days before trial, defendants moved for reconsideration. They argued that plaintiff would not be prejudiced by their amendment because no additional discovery would be required and the upcoming trial would not be delayed. However, even if defendants' argument that

there would be no prejudice has merit, it is simply too late to amend the answer to raise the statute of limitations defense.

Defendants have not even left plaintiff enough time to respond to their motion. At this late date and without full briefing, I cannot conclude whether additional fact discovery would be required in response to the amendment, or whether plaintiff has a viable equitable tolling argument. Defendants filed their Answer on May 3, 2013, and could have moved to amend at any point over the last ten months. Instead, they waited until less than a week before trial to do so. Given the unjustifiable and undue delay in seeking to add an affirmative defense, defendants' motion for reconsideration is denied.

SO ORDERED:

Shira A. Scheindlin
U.S.D.J.

Dated: February 28, 2014
New York, New York

- Appearances -

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