

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KAREN LAVERY, et al. : CIVIL ACTION
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B. MAXWELL'S, INC., et al. : No. 05-06322-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

December 4, 2006

On March 9, 2006, after due notice and after a hearing, plaintiffs' counsel was permitted to withdraw. The plaintiffs were afforded a further period of 90 days in which to retain new counsel. No new counsel has entered an appearance for any of the plaintiffs.

On June 27, 2006, defendants filed a motion to dismiss, and a motion for a more definite statement. The plaintiffs did not respond. The motion was granted in part and denied in part.

Defendants have now filed a motion seeking to require the plaintiffs to appear for a Rule 16 conference, so that discovery can be properly planned; the motion suggests that if the plaintiffs failed to appear, it would be appropriate to dismiss the case for lack of prosecution. That strikes me as an unnecessarily cumbersome procedure. The failure of the plaintiffs to show any sign of life in recent months may simply be due to their decision not to proceed further with this litigation. In view of the distances involved, it is preferable

to learn of plaintiffs' intentions without requiring physical appearance.

IT IS THEREFORE ORDERED:

1. That each plaintiff shall, within 20 days, notify this Court in writing whether she intends to proceed further with this litigation, and, if so, whether she will be represented by an attorney.

2. Unless, within that 20-day period, a plaintiff informs the Court of her desire to continue with the litigation, the action will be dismissed with prejudice as to that plaintiff.

3. Counsel for the defendants is directed to serve a copy of this Memorandum and Order upon each of the plaintiffs at her residence address, by personal service or by first class mail, and promptly to provide this court with proof of such service.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.