

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

MUSLIM COMMUNITY  
ASSOCIATION OF ANN ARBOR  
AND VICINITY, a/k/a MCA, Michigan  
Islamic Academy, a/k/a MIA,

Plaintiff,

v.

PITTSFIELD TOWNSHIP; *et al.*,

Defendants.

No. 2:12-cv-10803-PJD-DRG

NON-PARTY ZABA DAVIS'  
MOTION FOR RECONSIDERATION  
AND OPPOSITION TO PLAINTIFF'S  
"EMERGENCY MOTION" FOR  
EXTENSION OF TIME

Hon. Patrick J. Duggan

American Freedom Law Center  
Robert J. Muise, Esq. (P62849)  
P.O. Box 131098  
Ann Arbor, Michigan 48113  
(734) 635-3756

David Yerushalmi, Esq.  
1901 Pennsylvania Avenue NW  
Suite 201  
Washington, D.C. 20006  
(646) 262-0500

*Attorneys for Non-Party Ms. Zaba  
Davis*

Council on American-Islamic Relations,  
Michigan  
Lena F. Masri (P73461)  
21700 Northwestern Highway  
Suite 815  
Southfield, Michigan 48075  
(248) 559-2247

Gadeir I. Abbas (VA# 81161)  
Council on American-Islamic Relations  
453 New Jersey Avenue, SE  
Washington, D.C. 20003  
(202) 742-6410

*Attorneys for Plaintiff*

Foster, Swift, Collins & Smith, P.C.  
Thomas R. Meagher (P32959)  
Liza C. Moore (P72249)  
313 S. Washington Square  
Lansing, MI 48933

*Attorneys for Defendants*

For the reasons set forth in the accompanying brief, Non-Party Zaba Davis (Ms. Davis), by and through undersigned counsel, hereby moves this Court to reconsider its Order (Doc. No. 164) granting Plaintiff an extension of time in which to file an objection to Magistrate Judge Grand's Order (Doc. No. 103) granting Ms. Davis' motion to quash and for a protective order.

Respectfully submitted,

AMERICAN FREEDOM LAW CENTER

/s/ Robert J. Muise

Robert J. Muise, Esq. (P62849)

David Yerushalmi, Esq.

*Counsel for Non-Party Ms. Zaba Davis*

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

MUSLIM COMMUNITY  
ASSOCIATION OF ANN ARBOR  
AND VICINITY, a/k/a MCA, Michigan  
Islamic Academy, a/k/a MIA,

Plaintiff,

v.

PITTSFIELD TOWNSHIP; *et al.*,

Defendants.

No. 2:12-cv-10803-PJD-DRG

BRIEF IN SUPPORT OF NON-  
PARTY ZABA DAVIS' MOTION  
FOR RECONSIDERATION AND  
OPPOSITION TO PLAINTIFF'S  
"EMERGENCY MOTION" FOR  
EXTENSION OF TIME

Hon. Patrick J. Duggan

Counsel for Non-Party Zaba Davis (Ms. Davis) was informed late this morning that Plaintiff was intending to seek an order from this Court extending the time in which Plaintiff has to file an objection to the Magistrate Judge's Order granting Ms. Davis' motion to quash and for a protective order. (Doc. No. 103). Ms. Davis' counsel immediately informed Plaintiff's counsel that they oppose the motion and would be filing an opposition. Yet, while Ms. Davis' counsel was preparing the opposition, the Court granted the motion without having heard from Ms. Davis. (Doc. No. 164). Consequently, Ms. Davis respectfully requests that the Court reconsider its rather quick decision in light of this opposition.

Even a cursory review of the docket sheet for this case demonstrates Plaintiff's penchant for filing requests to extend time. The Rules of Civil Procedure, however, set forth various time requirements for a reason: so that there will be an orderly procedure to follow to ensure that matters can be finally resolved

without unnecessary delay. Fed. R. Civ. P. 1 (stating that the Rules “should be construed and administered to secure the just, speedy, and inexpensive determination of every action and proceeding”). And the need for finality is perhaps most important when a party is attempting to improperly drag a non-party into the litigation through abusive discovery practices, as Plaintiff has attempted to do here.

Plaintiff’s track record in this case, particularly as it relates to Ms. Davis, demonstrates that Plaintiff’s request for additional time in this instance was improper and done in bad faith. Indeed, Plaintiff’s factual representations to this Court conspicuously omit some important and material facts. For example, on July 3, 2014, and pursuant to Magistrate Judge Grand’s Order granting Ms. Davis’ motion to quash and for protective order (Doc. No. 103), Ms. Davis’ counsel reached out to Plaintiff’s counsel and requested to hold on July 8, 2014, the required meet-and-confer on the attorneys’ fees issue. In that email correspondence, Ms. Davis’ counsel informed Plaintiff’s counsel that to date Ms. Davis’ fees and costs totaled \$19,398. After receiving no response whatsoever from Plaintiff’s counsel, Ms. Davis’ counsel attempted once again to contact Plaintiff’s counsel on July 7, 2014, in order to schedule the required meet-and-confer. After apologizing for “somehow” “miss[ing]” the email, Plaintiff’s counsel agreed to hold a meet-and-confer at 3 pm on July 15, 2014. During that

teleconference, Ms. Davis' counsel offered to reduce the requested fee amount to \$12,500. And while it was clearly understood that the purpose for this meet-and-confer was to promptly settle the fee issue, Plaintiff's counsel apparently did not come to that meeting with the authority to engage in a serious discussion about the matter and to settle it then. Consequently, Plaintiff's counsel asked for additional time and stated that they would be discussing the matter with their client this morning (July 16) and would be able to respond to Ms. Davis' counsel with an acceptance or rejection by a 1 p.m. deadline of today. Apparently, this was not true because Plaintiff's counsel has now reneged on this promise and asked this Court for an additional 30 days without any good faith basis for doing so. Indeed, Plaintiff's counsel knows full well that there is no non-frivolous basis for objecting to Magistrate Judge Grand's Order, as counsel discussed during our meet-and-confer. Moreover, what exactly does it mean that "MIA's decision as to whether to file an objection to the Order has been complicated by Magistrate Grand's Order allowing Non-Party Zaba Davis to pursue recovery of costs and attorneys' fees"? (Pl.'s Mot. at 5 [Doc. No. 163]) (emphasis added). Plaintiff's counsel knew from the beginning that Ms. Davis would be seeking the recovery of fees and costs in this matter. In fact, counsel for Ms. Davis *repeatedly* requested that Plaintiff and its counsel withdraw *on their own* their irrelevant and burdensome discovery requests before having to turn to the Court for the relief Ms. Davis ultimately

received from Magistrate Judge Grand. Yet, Plaintiff's counsel refused, knowing full well that Ms. Davis would be seeking the recovery of attorneys' fees and costs. Thus, there is nothing complicated about this matter.

In sum, Plaintiff's counsel has improperly dragged Ms. Davis into this litigation, and Ms. Davis is looking to get this matter resolved promptly. Requesting (and now permitting) an additional 30 days to string this straightforward matter along is a delaying tactic that this Court should reject.

### CONCLUSION

For the foregoing reasons, Ms. Davis respectfully requests that the Court reconsider its Order and deny Plaintiff's motion to extend the time in which to file an objection to Magistrate Judge Grand's Order granting Ms. Davis' motion to quash and for a protective order.

Respectfully submitted,

AMERICAN FREEDOM LAW CENTER

/s/ Robert J. Muise

Robert J. Muise, Esq. (P62849)

David Yerushalmi, Esq.

*Counsel for Non-Party Ms. Zaba Davis*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 16, 2014, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the court's electronic filing system. Parties may access this filing through the court's system.

AMERICAN FREEDOM LAW CENTER

/s/ Robert J. Muise

Robert J. Muise, Esq. (P62849)