

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

CAROLINA CASUALTY INS. CO.,)	
)	CASE NO. 1:10cv2492
Plaintiff,)	
)	
v.)	JUDGE BENITA Y. PEARSON
)	
GALLAGHER SHARP, <i>et al.</i> ,)	
)	<u>MEMORANDUM OF OPINION AND</u>
Defendants.)	<u>ORDER</u> [Regarding ECF No. 54]

Before the Court is the Report and Recommendation of Magistrate Judge Kenneth S. McHargh devising a Revised Scheduling Order for discovery and dispositive motion cutoff dates.¹ [ECF No. 49](#). Defendants timely filed an Objection to the Report. [ECF No. 54](#).

Upon a *de novo* review of the record, the Court adopts the magistrate judge's Report and Recommendation and overrules Defendants' objections.

I.

On July 30, 2012 the Court indicated in its Order it would consider extending the date by which Plaintiff's expert reports are due and move forward each following date by 30 days. Following a telephonic conference with Magistrate Judge McHargh on August 1, 2012, the parties agreed to propose new dates to move the case forward. They did so, and on August 6, 2012, Magistrate Judge McHargh submitted a Revised Scheduling Order recommending the Court extend the discovery cutoff dates and the date by which dispositive motions are due. [ECF](#)

¹ District Judge Benita Y. Pearson assigned the above captioned case to Magistrate Judge Kenneth S. McHargh for resolution of a discovery dispute and to advise the Court of the status of the case. [ECF No. 41](#).

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[No. 49](#). Included in that Scheduling Order was an extension of Plaintiff's expert report date. On August 17, 2012, Defendants filed an Objection to the Report and Recommendation to the extent the Scheduling Order extended Plaintiff's expert report date. [ECF No. 54](#).

After further dispute and two telephonic conferences, Magistrate Judge McHargh issued an updated Scheduling Order revising certain case scheduling dates. [ECF No. 59](#). The date for Plaintiff's expert report remained the same as in the previous Scheduling Order ([ECF No. 49](#)).

II.

In cases that are referred to a magistrate judge for preparation of a Report and Recommendation, the Federal Magistrates Act requires that a district court conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). The district court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*; *see also* [Fed. R. Civ. Pro. 72\(b\)\(3\)](#) (“The district judge must determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.”). *See also* Local Rule 72.3(b).

III.

Defendants assert they object to the extension of Plaintiff's expert report dates for the reasons they had previously outlined in their earlier filed Opposition ([ECF No. 47](#)) to Plaintiff's Motion to Vacate ([ECF No. 45](#)). [ECF No. 54 at 1](#). The Court had already considered those arguments, and, while the Court denied Plaintiff's Motion to Vacate, it specifically allowed it

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will consider extending the date by which Plaintiff's expert report is due.

Defendants also argued it was inappropriate to set new expert disclosure deadlines at this time given that Plaintiff did not serve any expert witness disclosures prior to the previous deadline and still has yet to serve any such disclosure. [ECF No. 54 at 1](#).

Upon conducting its *de novo* review of the record, the Court finds that Defendants' objection does not warrant a rejection of or modification to the magistrate judge's thoughtful and thorough Report and Recommendation.

The Report and Recommendation ([ECF No. 49](#)) is adopted as to the issue of the extension of Plaintiff's expert report date. The remainder of the Report and Recommendation that is not superceded by Judge McHargh's September 26 Order ([ECF No. 59](#)) is adopted as well.

IT IS SO ORDERED.

October 2, 2012
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge