

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

|   |   |                                      |
|---|---|--------------------------------------|
| <b>GREGORY BETTS,</b>                                       | ) |                                      |
|   | ) |                                      |
| <b>Plaintiff,</b>   | ) |                                      |
|   | ) |                                      |
| <b>vs.</b>  | ) | <b>CIVIL ACTION NO. 16-0442-KD-C</b> |
|   | ) |                                      |
| <b>PROGRESSIVE SPECIALTY<br/>INSURANCE COMPANY, et al.,</b> | ) |                                      |
|   | ) |                                      |
| <b>Defendants.</b>  | ) |                                      |

**ORDER**

The action is before the Court on Defendant Berkley Regional Insurance Company’s Statement of Appeal of Magistrate Judge’s Order of July 14, 2017 and brief in support (docs. 73, 74). Berkley argues that the Magistrate Judge’s decision to grant Plaintiff Gregory Betts’ Motion for Leave to Disclose Expert Witness out of Time and to Extend Discovery Deadline was clearly erroneous and contrary to law. Therefore, Berkley moves this Court to overrule the Magistrate Judge’s order and deny Plaintiff’s motions.

Non-dispositive pretrial matters may be referred to a magistrate judge to hear and decide. Fed. R. Civ. P. 72(a). The district court “must consider timely objections and modify or set aside any part of” a magistrate judge’s order “that is clearly erroneous or is contrary to law.” Fed. R. Civ. P 72(a); 28 U.S.C. § 636(b)(1)(A) (“A judge of the court may reconsider any pretrial matter . . . where it has been shown that the magistrate judge’s order is clearly erroneous or contrary to law.”).

“Relief is appropriate under the ‘clearly erroneous’ prong of the test only if the district court ‘finds that the Magistrate Judge abused his discretion or, if after viewing the record as a whole, the Court is left with a definite and firm conviction that a mistake has been made.’ ” *Melech v. Life Ins. Co. of N. Am.*, 857 F. Supp. 2d 1281, 1283 (S.D. Ala. 2012) (quoting *Pigott v. Sanibel Dev., LLC*, 2008 WL 2937804, \*5 (S.D. Ala. July 23, 2008)). A decision is “contrary to law when it fails to

apply or misapplies relevant statutes, case law or rules of procedure.” *Id.*

The Court has considered the Magistrate Judge’s decision to grant Plaintiff’s motions, and the reasons set forth in the order and on the record during the discovery hearing. The Court has also considered Berkley’s objections to the decision, as well as the underlying motions, responses, and reply. Upon consideration, the Court concludes that the Magistrate Judge’s decisions are not clearly erroneous or contrary to law and that the Magistrate Judge did not abuse his discretion. Accordingly, Berkley’s appeal is DENIED and the Magistrate Judge’s decision is AFFIRMED.

**DONE** and **ORDERED** this the 3rd day of August 2017.

s/ Kristi K. DuBose  
**KRISTI K. DuBOSE**  
**CHIEF UNITED STATES DISTRICT JUDGE**