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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
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10 Arizona School Risk Retention Trust,
11 Inc.,

12 Plaintiff,

13 vs.

14 NMTC, Inc., d/b/a Matco Tools, et al.,

15 Defendants.

No. CV-14-08009-PCT-PGR

ORDER

16 Pending before the Court is the plaintiff's Motion to Extend Deadline for
17 Plaintiff's Rebuttal Expert Report (Doc. 90). Having considered the motion and the
18 defendants' response thereto (Doc. 92), the Court finds that the plaintiff's motion
19 should be granted in part and denied in part.

20 First Issue. The Court will not reconsider its previous order (Doc. 66) declining
21 to accept the parties' handwritten stipulation dated February 11, 2015 because it
22 was not filed with the Court as a formal stipulation as ordered.

23 Second Issue. The plaintiff requests that the Court require the deposition of
24 the defendants' Fed.R.Civ.P. 30(b)(6) deponent be held in Phoenix at the
25 defendants' expense. The Court declines to do so given deponent John Horvath's
26 affidavit that he will suffer undue familial and employment hardship if he has to

1 travel to Phoenix from Ohio where he resides and works. As is customary, the Rule
2 30(b)(6) deposition will take place at the deponent's place of employment in Ohio
3 unless the parties file a formal stipulation agreeing to a different place of deposition.
4 The parties may agree that the deposition may be held telephonically or via remote
5 means.

6 Third Issue. The plaintiff also requests that the time for defendants to respond
7 to written discovery requests, *i.e.*, requests for admission, interrogatories and
8 requests for production, be reduced from 40 days to 20 days and that the defendants
9 be ordered to make good faith efforts to answer such requests sooner if possible.
10 The defendants respond (1) that the request is unnecessary because the plaintiff
11 has not served any discovery for the defendants to answer since the production of
12 the defendants' expert reports, (2) that they will make a concerted effort to respond
13 to any discovery served on them within 30 days, but request that the applicable 40
14 day rule apply, and (3) that it is unnecessary to order them to make a good faith
15 effort to respond sooner as they have complied with all of the plaintiff's requests.

16 The Court will not order the acceleration of any upcoming discovery response
17 times and will require the parties to adhere to the discovery response time deadlines
18 set forth in the Federal Rules of Civil Procedure, unless the parties formally file a
19 stipulation agreeing to a different response time. **In this regard the Court,**
20 **although it has no idea why it should have to do so, admonishes the parties'**
21 **counsel that their continuing and inexplicable reliance on the Arizona Rules**
22 **of Civil Procedure stops now.** For example, there is no 40-day response time for
23 discovery requests in the federal rules - that is a state rule that has no application
24 here - the applicable federal rules require responses to be filed within 30 days; there
25 is also no limitation on the number of requests for production in the federal rule - the
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1 plaintiff's counsel's previous reliance on a limitation of 10 requests is also improperly
2 based on an inapplicable state rule. See Fed.R.Civ.P. 81(c)(1) ("These rules [of
3 federal civil procedure] apply to a civil action after it has been removed from a state
4 court."); Willy v. Coastal Corp., 503 U.S. 131, 134-35 (1992) (noting that the
5 "expansive language [of Fed.R.Civ.P. 81(c)] contains no express exceptions and
6 indicates a clear intent to have the [Federal Rules of Civil Procedure] ... apply to all
7 district court civil proceedings.")

8 Fourth Issue. The plaintiff further requests that the Court order the defendants
9 to cooperate with its investigation concerning information needed to address issues
10 raised in their expert reports. The Court sees no reason to explicitly do so since
11 counsel already have the ethical obligation to reasonably cooperate with each other.

12 The Court will, however, admonish counsel that they will not be allowed to file
13 any future motion with the Court that in any manner relates to a discovery dispute
14 without fully complying with LRCiv 7.2(j) ("No discovery motion will be considered or
15 decided unless a statement of moving counsel is attached thereto certifying that after
16 personal consultation and sincere efforts to do so, counsel have been unable to
17 satisfactorily resolve the matter. Any discovery motion brought before the Court
18 without prior personal consultation with the other party and sincere effort to resolve
19 the matter, may result in sanctions.") **Any future discovery-related motion must**
20 **contain a separate certification statement complying with LRCiv 7.2(j) signed**
21 **by the moving party's lead counsel**, regardless of which counsel actually signs the
22 motion.

23 Third Issue. The defendants' counsel are admonished that the Court will no
24 longer tolerate their continuing disregard of LRCiv 7.1(a)(3)'s requirement regarding
25 the capitalization of parties' names in the captions of documents filed with the Court.
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1 Because the Court has already warned counsel in four previous orders (Docs. 15,
2 25, 51, and 86) about this requirement, notwithstanding that the Court should not
3 have had to issue a single such warning, the Court will require defendants' lead
4 counsel Roger Strassburg to file a certification with the Court stating that his office
5 has changed its procedure for captioning documents so as to comply with LRCiv
6 7.1(a)(3) and for submitting proposed orders that fully comply with LRCiv 7.1(b)(3).¹
7 Not only will the Court strike any future document not fully complying with LRCiv
8 7.1(a)(3), the Court will consider personally sanctioning the counsel who signed the
9 offending document. See LRCiv 83.1(f). Therefore,

10 IT IS ORDERED that the plaintiff's Motion to Extend Deadline for Plaintiff's
11 Rebuttal Expert Report (Doc. 90) is granted in part solely as follows:

12 (1) The plaintiff shall serve its expert's rebuttal report no later than **May 13,**
13 **2015;**

14 (2) Requests, whether by motion or stipulation, to amend pleadings or to join
15 additional parties shall be filed no later than **May 12, 2015;**

16 (3) The defendants shall serve their expert's rebuttal report no later than **June**
17 **5, 2015.**

18 IT IS FURTHER ORDERED that no future discovery-related motion shall be
19 filed unless it fully complies with the certification requirement of moving counsel as
20 set forth in this Order.

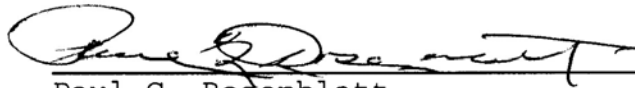
21 IT IS FURTHER ORDERED that the deposition of defendants' Fed.R.Civ.P.
22 30(b)(6) deponent shall take place at the defendants' principal place of business in
23 Ohio unless the parties formally stipulate otherwise.

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25 The plaintiff's counsel have also been submitting proposed forms of
26 orders that do not fully comply with LRCiv 7.1(b)(3) and that too must stop.

1 IT IS FURTHER ORDERED that defendants' counsel Roger Strassburg shall
2 file a certification regarding his office's compliance with LRCiv 7.1(a)(3) and (b)(3)
3 as set forth in this Order no later than **April 13, 2015**.

4 DATED this 1st day of April, 2015.

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7 Paul G. Rosenblatt
8 United States District Judge
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