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

DONALD HAYES ALBEE,

Plaintiff,

No. CIV S-09-1145 LKK EFB

vs.

CONTINENTAL TIRE NORTH AMERICA,
FORD MOTOR COMPANY, INC.,

Defendants.

ORDER

On June 22, 2010, the undersigned issued an order continuing the hearing on defendant Continental Tire North America, Inc.'s ("CTNA") motion for a protective order, Dckt. No. 108, to July 7, 2010; expressing concern about whether the current discovery deadline in this case would permit the undersigned to hear the protective order motion; and directing CTNA to file, on or before June 30, 2010, "either (a) an explanation of the undersigned's authority to hear the protective order motion, or (b) a request to the district judge for a continuance of the discovery deadline." Dckt. No. 116 at 4. The undersigned acknowledged "that as a result of the many discovery disputes in this action and the requested continuances resulting from those discovery disputes, the discovery deadline in this action has been at least partially continued beyond the June 7, 2010 deadline set by the district judge on March 1, 2010," but expressed concern that "it does no appear from the docket that the discovery deadline has been continued beyond the June 7 deadline for any purpose other than enforcement of the specific discovery disputes already

1 decided and for production of the specific discovery at issue in those disputes, and it is clear that
2 even the extension the district judge has authorized for production of that discovery [was to
3 expire on June 22, 2010].”

4 On June 25, 2010, plaintiff filed a letter to the district judge regarding a proposed
5 modification of the scheduling order, including a modification of the discovery deadline. Dckt.
6 No. 118. Plaintiff then stated: “There is one other issue which needs clarification. Plaintiff has
7 noticed depositions of certain CTNA personnel. CTNA filed a Protective Order [motion].
8 Magistrate Judge Brennan issued an Order on June 22, 2010 (Doc. # 116) stating he did not
9 believe he had jurisdiction to hear the matter. Plaintiff would like to proceed with the scheduled
10 discovery. Plaintiff would ask the Court to clarify that issue and permit the parties to proceed
11 with hearing that and any other discovery disputes before Magistrate Judge Brennan.”¹ *Id.* at 2.
12 On July 1, 2010, the district judge issued an order setting a status conference on July 12, 2010
13 regarding amendment of the scheduling order. Dckt. No. 120.

14 Although ordered to do so on or before June 30, 2010, CTNA has not filed either (a) an
15 explanation of the undersigned’s authority to hear the protective order motion, or (b) a request to
16 the district judge for a continuance of the discovery deadline. Additionally, it is clear from the
17 docket that any modification of the scheduling order will occur only after the July 12, 2010
18 status conference before the district judge. Therefore, CTNA’s motion for a protective order,
19 Dckt. No. 108, is denied without prejudice. If the district judge grants a continuance of the
20 discovery deadline, the motion may be re-noticed.

21 SO ORDERED.

22 DATED: July 1, 2010.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

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25 ¹ The undersigned acknowledges that a transcript of a hearing before the assigned district
26 judge was added to the docket on June 29, 2010, in which the district judge discusses a possible
extension of the discovery deadline in this action. However, that extension has not yet been
ordered.