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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONALD HAYES ALBEE,

Plaintiff,

v.

CONTINENTAL TIRE NORTH
AMERICA, INC., An Ohio
Corporation, and FORD
MOTOR COMPANY, INC., a
Delaware Corporation,

Defendants.

NO. CIV. S-09-1145 LKK/EFB

O R D E R

_____/

Plaintiff in this case asserts strict liability and negligence claims against defendants Ford Motor Company ("Ford") and Continental Tire North America ("CTNA"). The claims arise from an accident in which an after-market tire on the Ford Explorer that plaintiff was driving allegedly malfunctioned, resulting in a rollover accident in which plaintiff was severely injured. Defendant Ford Motor Company has filed a motion for summary judgment of the strict liability and negligence claims against it, or in the alternative for partial summary judgment. For the reasons

1 stated below, defendant Ford Motor Company's Motion is DENIED.
2 Plaintiff has filed a motion for leave to amend the complaint to
3 add Donald D. Albee as conservator for the person and estate of
4 Donald Hayes Albee, and to eliminate the request for punitive
5 damages. For the reasons stated below, the court GRANTS plaintiff's
6 motion to amend the complaint. Additionally, defendant CTNA has
7 filed two motions to exclude plaintiff's retained experts. The
8 motions to exclude plaintiff's experts are DENIED. Defendant CTNA
9 has filed a motion for sanctions, which the court GRANTS in part
10 and DENIES in part.

11 **I. Background**

12 On June 22, 2008, plaintiff Donald Albee alleges that he was
13 driving his Ford Explorer ("the Explorer") when the left rear tire
14 malfunctioned as a result of tread and/or belt separation. The
15 Explorer then rolled over, causing severe injuries to Mr. Albee.
16 Compl. at 3. The left rear tire on the Explorer was manufactured
17 by Continental Tire North America. It was an "aftermarket" tire,
18 meaning that it was installed on the Explorer after the Explorer
19 left Ford's possession. Plaintiff alleges that the tire was
20 defectively designed, and that negligent manufacturing practices
21 were used by CTNA. Plaintiff also alleges that the Explorer was
22 designed with defective handling characteristics, and that it had
23 a propensity to roll over during foreseeable emergency situations.
24 Plaintiff alleges "the defective design of the Explorer resulted
25 in an unstable and uncontrollable vehicle during the tread
26 separation event. Because of its lack of stability the vehicle

1 skated (fishtailed), which plaintiff could not control during the
2 tread separation event, which resulted in the vehicle leaving the
3 roadway and rolling over." Pl.'s Oppo at 5. Plaintiff also alleges
4 that the defendants failed to warn users about the dangerous nature
5 of the vehicle and the tire, and that safer alternative designs
6 were available.

7 Ford Motor Company has filed a Motion for Summary Judgment on
8 the claims against it, or in the alternative, for partial summary
9 judgment. ECF No. 146.

10 **II. Standard for a Rule 56 Summary Judgment Motion**

11 Summary judgment is appropriate when there exists no genuine
12 issue as to any material fact. Such circumstances entitle the
13 moving party to judgment as a matter of law. Fed. R. Civ. P. 56(c);
14 see also Adickes v. S.H. Kress & Co., 398 U.S. 144, 157 (1970);
15 Secor Ltd. v. Cetus Corp., 51 F.3d 848, 853 (9th Cir. 1995). Under
16 summary judgment practice, the moving party

17 always bears the initial responsibility of informing the
18 district court of the basis for its motion, and
19 identifying those portions of "the pleadings,
20 depositions, answers to interrogatories, and admissions
on file, together with the affidavits, if any," which it
believes demonstrate the absence of a genuine issue of
material fact.

21 Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986) (quoting Fed.
22 R. Civ. P. 56(c)).

23 If the moving party meets its initial responsibility, the
24 burden then shifts to the opposing party to establish the existence
25 of a genuine issue of material fact. Matsushita Elec. Indus. Co.
26 v. Zenith Radio Corp., 475 U.S. 574, 585-86 (1986); see also First

1 Nat'l Bank of Ariz. v. Cities Serv. Co., 391 U.S. 253, 288-89
2 (1968); Secor Ltd., 51 F.3d at 853. In doing so, the opposing party
3 may not rely upon the denials of its pleadings, but must tender
4 evidence of specific facts in the form of affidavits and/or other
5 admissible materials in support of its contention that the dispute
6 exists. Fed. R. Civ. P. 56(e); see also First Nat'l Bank, 391 U.S.
7 at 289. In evaluating the evidence, the court draws all reasonable
8 inferences from the facts before it in favor of the opposing party.
9 Matsushita, 475 U.S. at 587-88 (citing United States v. Diebold,
10 Inc., 369 U.S. 654, 655 (1962) (per curiam)); County of Tuolumme
11 v. Sonora Cmty. Hosp., 236 F.3d 1148, 1154 (9th Cir. 2001).
12 Nevertheless, it is the opposing party's obligation to produce a
13 factual predicate as a basis for such inferences. See Richards v.
14 Nielsen Freight Lines, 810 F.2d 898, 902 (9th Cir. 1987). The
15 opposing party "must do more than simply show that there is some
16 metaphysical doubt as to the material facts Where the
17 record taken as a whole could not lead a rational trier of fact to
18 find for the nonmoving party, there is no 'genuine issue for
19 trial.'" Matsushita, 475 U.S. at 586-87 (citations omitted).

20 **III. Analysis**

21 **A. Strict Liability under California Law**

22 Count Three of plaintiff's complaint is against Ford for
23 Strict Liability.¹ Plaintiff claims that the Explorer was defective
24 at the time that it left Ford's control in that it had defective

25
26 ¹ Counts one and two are against CTNA, and are not the subject
of the pending motion for summary judgment by Ford.

1 handling characteristics and that Ford failed to warn about the
2 dangers of the vehicle. Plaintiff claims that Ford was aware of the
3 defects and that safer alternative designs were available.
4 Defendant contends that plaintiff has not and cannot obtain
5 evidence that any defect was a substantial factor in causing
6 plaintiff's injuries. Specifically, the defendant claims that the
7 plaintiff's expert has stated that he had no opinion about whether
8 the vehicle's design was a substantial factor in causing
9 plaintiff's injuries. Def.'s Memo 4.

10 A federal court sitting in diversity jurisdiction applies
11 state law to product liability claims. Stilwell v. Smith & Nephew,
12 Inc., 482 F.3d 1187, 1193 (9th Cir. 2007). Under California law,

13 a product may be found defective in design, so as to
14 subject a manufacturer to strict liability for resulting
15 injuries, under either of two alternative tests. First,
16 a product may be found defective in design if the
17 plaintiff establishes that the product failed to perform
18 as safely as an ordinary consumer would expect when used
19 in an intended or reasonably foreseeable manner. Second,
20 a product may alternatively be found defective in design
21 if the plaintiff demonstrates that the product's design
22 proximately caused his injury and the defendant fails to
23 establish, in light of the relevant factors, that, on
24 balance, the benefits of the challenged design outweigh
25 the risk of danger inherent in such design.

20 Barker v. Lull Engineering Co., 20 Cal. 3d 413, 432 (Cal. 1978).

21 See also Chambliss v. GMC, 108 F.3d 1176 (9th Cir. 1997); Lucas v.
22 City of Visalia, 2010 U.S. Dist. LEXIS 73649 (E.D. Cal. July 20,
23 2010) (Ishii). With respect to vehicles, manufacturers must take
24 into account the foreseeable risk that the vehicle will be involved
25 in an accident. "Thus, whatever the cause of an accident, a
26 vehicle's producer is liable for specific collision injuries that

1 would not have occurred but for a manufacturing or design defect
2 in the vehicle." Soule v. General Motors Corp., 8 Cal. 4th 548, 560
3 (Cal. 1994). For a claim under the first prong of the Barker test,
4 expert testimony is unnecessary, since the test is based on
5 ordinary consumer expectations, and no expert can provide a jury
6 with useful testimony on that subject. Id. at 566.² Expert
7 testimony is appropriate, however, to weigh the costs and benefits
8 of a particular design under the second prong of Barker.

9 In this case, plaintiff's claim is that "the solid rear axle
10 of the Explorer experienced tramp³ which resulted in skate during
11 the tread separation event. The tramp in the rear axle caused the
12 vehicle to become unstable, and to exhibit skate or oversteer; a
13 complete change from the normal characteristic of the Explorer."
14 Pl.'s Oppo. at 7. Plaintiff claims that safer alternative designs
15 were available, such as stiffer shocks or independent rear
16 suspension, in which the rear axle would not become unstable
17 following tread separation. To support this claim, plaintiff offers
18 the deposition testimony of Stephen Arndt, an expert in automotive
19 safety engineering. In his deposition, Mr. Arndt testified that
20 "the tramping motion [of the Explorer] causes a lack of traction
21 at the rear suspension that is above and beyond what you get with

22
23 ² That is not to say that an expert's testimony may not be
24 admitted to explain the mechanism or dynamic leading to the failure
of expectations.

25 ³ Tramp is the phenomenon caused when "one tire is going up
26 and the other one is going down and it goes back and forth up and
down, up and down out of phase from left to right." Arndt Depo.
50:21-24.

1 just a pure tread separation." Deposition Transcript of S. Arndt
2 ("Arndt Depo.") 51:12-14. Mr. Arnt stated that it was his opinion
3 that the Explorer was defective "based on its axle tramp and
4 stability characteristics." Id. at 52:18-19. In essence,
5 plaintiff's argument is that following the tread separation, due
6 to the design of the rear axle, the Explorer's handling
7 characteristics changed in a way that caused the rollover accident.
8 Other design alternatives, for example, independent rear
9 suspension, would have prevented the tramping and related changes
10 to the handling characteristics.

11 **i. Defect**

12 Defendants assert that Mr. Arndt's testimony fails to
13 demonstrate that stability characteristics of the Explorer caused
14 the accident. Defs.'s Memo 4. To support its position, defendant
15 quotes a portion of Mr. Arndt's deposition testimony in which Mr.
16 Arndt answers "no" to the question, "So are you offering any
17 opinions as to the roll stability of the vehicle with respect to
18 this accident." Plaintiff argues, and the court agrees, that this
19 portion of the testimony is misleading and irrelevant to
20 plaintiff's claim when taken out of context. Plaintiff's claim is
21 that defective *handling* stability characteristics caused the
22 accident, not defective *roll* stability characteristics. Pl.'s Resp.
23 to the Statement of Undisputed Facts at ¶8. In his complaint,
24 plaintiff pled facts about Explorer's "propensity to roll over" and
25 its "defective handling characteristics." The court concludes that
26 there remains a genuine issue as to a material fact in this case,

1 that is, whether the Explorer had defective handling stability
2 characteristics.

3 **ii. Causation**

4 Defendant argues that the tire de-tread was the cause of
5 the accident, and not the design of the Explorer. Again, defendant
6 excerpts a portion of the deposition testimony to support its
7 position:

8 "Q: Are you saying that the tire detread and the left
9 rear position caused the loss of control in the
subsequent rollover?

10 A: It certainly - I guess 'caused.' It's the thing
that starts the event as it unfolds . . .

11 Q: [A]re you saying there that the [tire tread
separation] caused the loss of control?

12 A. In essence, yes, because . . . it starts it and you
13 have a loss of control because that tire had a tread
separation."

14 Ford's Memo at 5 (quoting Arndt Depo at 133:14-18). Defendant
15 argues that this statement by the expert demonstrates the absence
16 of genuine issue as to whether a defect in the Ford caused the
17 accident. However, the expert's use of the word "cause" in the
18 deposition testimony does not match the legal definition of 'cause'
19 under California tort law. As the defendant correctly asserts,
20 under California law, a defective product "causes" an injury when
21 it is a "substantial factor in brining about" the injury.
22 Rutherford v. Owens-Illinois, Inc. 16 Cal.4th 953, 968 (1997).
23 Defendant is asking the court to treat the expert's statement--that
24 the tire detread caused the accident--as a conclusion of law. This
25 it cannot do. See Goodman v. Harris County, 571 F.3d 388, 399 (5th
26 Cir. 2009) ("An expert may never render conclusions of law.");

1 Crayton v. Rossi, 384 Fed. Appx. 330, 332-333 (5th Cir. 2010)
2 (noting that expert "affidavits setting forth ultimate or
3 conclusory facts and conclusions of law are insufficient to either
4 support or defeat a motion for summary judgment." (internal
5 citations omitted.)); Cauthen v. Pacific Gas & Electric Co., 1990
6 U.S. App. LEXIS 21055 (9th Cir. Dec. 4, 1990) (" . . . the conclusion
7 that Bigge caused the accident is a conclusion of law . . . [and is]
8 not a proper issue for expert testimony.") (unpublished). At other
9 points in Mr. Arndt's testimony, he describes the interaction of
10 the tire detread with specific characteristics of the Ford Explorer
11 that lead to instability and difficult handling of the vehicle. For
12 example, Mr. Arndt testified that in a 2002 Ford Explorer, "on top
13 of [lack of traction caused by the tread separation] you have this
14 characteristic of the tramping axle that further destabilizes the
15 vehicle at those highway speeds and makes an already difficult
16 situation for the driver to deal with." Arnt Depo at 51:14-20.
17 Later, Mr. Arndt testified that the solid rear axle design in the
18 Explorer is "an additive problem. It just makes a bad situation
19 worse." Id. at 84:22-23.

20 The defendant has not demonstrated a lack of genuine issue as
21 to the material fact whether the Ford's design was a substantial
22 factor in the accident that caused plaintiff's injuries.

23 **iii. Alternative Designs**

24 In his report, Mr. Arndt listed two alternative designs that
25 he testified would have reduced or eliminated the rear axle tramp
26 that contributed to the handling stability problems that allegedly

1 contributed to the rollover and plaintiff's injuries. "Rear axle
2 tramp . . . can be significantly reduced by using stiffer shock
3 absorbers such as the Ford replacement shocks provided for testing.
4 Rear axle tramp can be eliminated by using an independent rear
5 suspension such as that used in 2002 4-door Explorers." Report of
6 Stephen Arndt at 31 ("Arndt Report"), attached as Exhibit 1 to Dec.
7 of S. Arndt in Supp. of Pl.'s Oppo., ECF NO 158-3. In its motion
8 for summary judgment, defendant quotes Mr. Arnt's testimony and
9 then concludes that he "could not state with a reasonable degree
10 of probability that there would be no handling issues if the
11 vehicle had an independent rear suspension." Def.'s Memo 9:10-12.
12 However, the portion of the deposition testimony quoted only
13 demonstrates that Mr. Arnt could not say with a reasonable degree
14 of certainty that the same type of accident would not have occurred
15 in a vehicle with independent rear suspension "with the same speeds
16 and same detreading . . . [and] with the *same steering inputs*."
17 Arndt Depo. 83:2-11 (emphasis added). A central part of plaintiff's
18 claim is that the handling characteristics of the Explorer changed
19 so dramatically during the event that the driver responded by
20 steering the car in a way that was reasonable, but which
21 nonetheless caused the car to roll over. Plaintiff claims that the
22 driver's steering inputs would have been different had the handling
23 characteristics been different during the event. As the expert's
24 report summarizes:

25 "the degradation in the basic handling behavior of the
26 Ford Explorer Sport is sudden and unexpected by the
driver. . . Mr. Albee was suddenly faced with a vehicle

1 that pulled to the left. Had Mr. Albee not responded to
2 the pull to the left, his vehicle would have left its
3 lane. . . crossed over the other travel lanes and struck
4 the center median divider. Mr. Albee had no way of
5 knowing that his Ford Explorer Sport had fundamentally
6 changed in the way it behaves as a result of the tread
7 detachment at the left rear wheel position . . . The
8 fundamental changes in the Ford Explorer Sport's
9 behavior result in the vehicle loss of control when Mr.
10 Albee countersteered back to the left in response to the
11 greater than anticipated rightward vehicle motion."

12 Arndt Report at 30. In a car with independent rear suspension,
13 the driver's steering inputs would not have been the same, so
14 Mr. Arndt's inability to conclude that the accident would not
15 have occurred if the same steering inputs were given in a
16 vehicle with independent rear suspension is irrelevant to
17 whether or not independent rear suspension would have been a
18 safer alternative design. A driver of a vehicle with independent
19 suspension would not have given the car the same steering inputs
20 that Mr. Albee did, since the driver would not have been
21 responding to the same conditions. To the contrary, Mr. Arndt's
22 report stated that independent suspension would have eliminated
23 the rear axle tramp that caused the handling problems that Mr.
24 Albee experienced. Additionally, Mr. Arndt stated that stiffer
25 shocks would have reduced the amount of tramp.

26 Accordingly, defendants have not shown that there is no
genuine issue as to the material fact of whether safer design
alternatives were available.

B. Negligence

As its fourth cause of action, plaintiff alleges that Ford
breached its duty of care by negligently designing the Explorer,

1 negligently testing or failing to test the Explorer, and
2 negligently failing to warn plaintiff of the defects. Defendant
3 argues that plaintiff has failed to establish that the Explorer
4 was defective, and therefore cannot establish that Ford was
5 negligent. In California, "a plaintiff in a products liability
6 case c[an] seek recovery at the same time on theories of strict
7 liability in tort and in negligence." *Jiminez v. Sears*, 4 Cal.
8 3d 379, 387 (1971). Defendant contends, citing Montez v. Ford
9 Motor Co., 101 Cal App. 3d 315 (1980), that when the negligence
10 claim depends on the existence of a defect, failure to establish
11 that there is a defect necessarily results in failure of the
12 negligence claim. Here, plaintiff's claims for negligent design
13 and failure to warn do depend on the existence of a defect.
14 Because there remain several genuine issues as to material fact
15 with respect to the defective nature of the Ford explorer, as
16 discussed above, defendant is not entitled to summary judgment
17 on the negligence claim.

18 **C. Plaintiff's Motion for Leave to Amend**

19 On November 22, 2010, plaintiff filed a motion for leave to
20 amend the complaint to add Donald D. Albee as conservator for
21 the person and estate of Donald Hayes Albee, and to eliminate
22 the request for punitive damages. Defendant Ford Motor Company
23 has filed a statement of non-opposition. ECF No. 152. Defendant
24 Continental Tire North America ("CTNA") filed a response to the
25 motion. ECF No. 153. In its response, CTNA notes that the
26 proposed amended complaint filed with the instant motion

1 continues to state that plaintiff seeks punitive damages in the
2 prayer for relief. CTNA also objects to the continued inclusion
3 of factual allegations that, through discovery, they assert have
4 been shown to be without support.

5 Fed. R. Civ. Proc. 15(a)(2) directs the court to "freely
6 give leave when justice requires." Donald D. Albee is the father
7 and was appointed Conservator of Donald Hayes Albee's person and
8 estate on July 26, 2010, following a determination that Mr.
9 Albee lacked capacity to care for himself after the accident.

10 Neither defendant opposes amending the complaint to add Donald
11 D. Albee as a plaintiff. The court finds that it is in the
12 interest of justice to grant plaintiff leave to amend the
13 complaint to add Donald D. Albee as conservator for the person
14 and estate of Donald Hayes Albee as the plaintiff in this
15 action.

16 Likewise, neither party opposes plaintiff's request to
17 eliminate Count Five of the complaint, which is a claim for
18 punitive damages. The court finds that it is in the interest of
19 justice to grant plaintiff leave to amend the complaint to
20 eliminate Count Five, and directs plaintiff to eliminate any
21 other reference in the complaint to punitive damages.⁴

22 ////

23
24 ⁴ The opposition to the amendment premised on a lack of
25 evidence seems inappropriate, given the nature of the motion to
26 amend. That is not to say that a motion for summary judgment
(assuming that the particular defendant's interest is in issue)
would not be appropriate. In any event, further consideration at
pretrial may be warranted.

1 **D. Defendant CTNA's Motions to Exclude Plaintiff's Retained**
2 **Experts**

3 Defendant CTNA has filed motions to exclude plaintiff's
4 retained experts Troy Cottles and Ricky Alan Sarkisian, PH.D.
5 The court has considered the motions to exclude and denies both
6 motions.

7 **E. Sanctions against Plaintiff's Counsel**

8 Defendant CTNA seeks sanctions against plaintiff's counsel
9 for the last-minute cancellation of an out-of-state deposition.
10 Fed. R. Civ. P. 30(g)(1) states that a party may recover
11 reasonable expenses, including attorney's fees, when the party
12 noticing a deposition fails to attend and proceed with the
13 deposition. See Detsch & Co. v. American Products Co., 141 F.2d
14 662 (9th Cir. 1944) (affirming an award of attorney's fees when
15 the noticing party cancelled one of two scheduled depositions).
16 On November 11, 2010, plaintiff served CTNA a Notice of
17 Deposition of CTNA Representatives with the Most Knowledge of
18 Certain Areas, scheduled for November 18, 2010 in Akron, Ohio.
19 Decl. of A. Latiolait in Support of CTNA's Mot. for Sanctions
20 ("Latiolait Decl."), Ex. G. The notice was for a deposition
21 pursuant to Fed. R. Civ. P. 30(b)(6), which requires an
22 organization that receives such a notice to designate one or
23 more persons to testify about information known or reasonably
24 available to the organization about the matter specified in the
25 notice. The notice specified five areas of inquiry upon which
26 the deposition would be taken. The notice also ordered CTNA to

1 produce certain documents related to those areas of inquiry, but
2 did not state that the deposition was contingent on the
3 production of those documents.⁵ CTNA contends that it conducted
4 a good-faith search of responsive documents, found none, and
5 served a response stating so on November 16, 2010 via email.
6 Def.'s Mot. for Sanctions at 5. CTNA's counsel, Mr. Latiolait,
7 traveled to Akron on November 16, 2010 in anticipation of the
8 scheduled deposition on November 18. On November 17, 2010 at
9 6:21 PM, plaintiff's counsel sent an email to Mr. Latiolait
10 stating "I am cancelling the deposition as a futile act," citing
11 CTNA's response to the document request as the source of
12 futility. Latiolait Decl., Ex. C. Plaintiff's counsel did not
13 travel to Akron to initiate the deposition. Plaintiff argues
14 that he had previously requested the documents on numerous
15 occasions, including in notices for depositions scheduled prior
16 to a protective order issued by the magistrate judge on October
17 13, 2010. Plaintiff states several instances in which he
18 requested the documents, but does not assert that he sought to
19 enforce the request or that he communicated to CTNA that the
20 deposition was contingent on the production of documents.

21 The court concludes that an award of reasonable costs,
22 including attorney's fees is appropriate in this case. However,

23
24 ⁵The November 11 notice was an amended notice of the
25 deposition. The deposition was initially scheduled for May 25,
26 2010, but CTNA filed a motion for a protective order. A hearing was
held before the magistrate judge, and the magistrate issued an
order on October 13, 2010, which narrowed the scope of the
deposition.

1 CTNA has not provided sufficient detail to support the award
2 amount requested by defendant. See e.g., Shakey's, Inc. v.
3 Covalt, 704 F.2d 426, 436 (9th Cir. 1983) (affirming a fee award
4 when affidavits were submitted that itemized the work
5 performed). In his declaration, Mr. Latiolait stated "CTNA has
6 incurred reasonable attorney's fees of \$5775 in connection with
7 travel to and from and preparation of the 30(b)(6) designee for
8 this deposition." Latiolait Decl. at 6. Additionally, Mr.
9 Latiolait stated that his hotel, airfare, and car rental
10 expenses were \$950.65. CTNA is ORDERED to submit, within ten
11 (10) days of the issuance of this order, an affidavit that
12 itemizes the costs and fees requested. The affidavit shall state
13 the number of hours worked on each task, the hourly rate of each
14 person working on each task, and a showing that the hourly rates
15 claimed are justified. Plaintiff may file a response ten (10)
16 days thereafter.

17 **IV. Conclusion**

18 For the foregoing reasons, the court ORDERS as follows:

19 [1] Defendant Ford Motor Company's Motion for Summary
20 Judgment or in the Alternative for Partial Summary
21 Judgment, ECF No. 146 is DENIED.

22 [2] Plaintiff's Motion to Amend the Complaint, ECF No.
23 147, is GRANTED.

24 [3] Defendant's CTNA's motions to exclude plaintiff's
25 retained experts, ECF No. 148 and 149, are DENIED.

26 [4] Defendant CTNA's motion for sanctions, ECF No. 165

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is GRANTED in part and DENIED in part. Defendant CTNA is ORDERED, within fourteen (14) days of the issuance of this order, to file with the court an affidavit in support of its motion for sanctions that complies with this order. Within fourteen (14) days of the filing of defendant's affidavit, plaintiff shall file a response indicating whether it objects to the amount requested by defendant, and providing an explanation for the objection.

IT IS SO ORDERED.

DATED: January 21, 2011.


LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT