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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 BRIAN TODD SNELSON ,
12 Plaintiff,
13 v.
14 DAIMLER TRUCKS NORTH
15 AMERICA LLC, formerly
16 FREIGHTLINER CORPORATION;
17 PENSKE TRUCK LEASING, CO. L.P.;
18 PENSKE CORPORATION; PENSKE
19 AUTOMOTIVE GROUP, INC.,
Defendants.

Case No.: 22-cv-551-BAS-DDL

**ORDER GRANTING MOTIONS TO
EXTEND FACT DISCOVERY AND
EXPERT DISCOVERY DEADLINES**

[Dkt. Nos. 56, 57]

20 On May 10, 2023, pursuant to this Court's minute order [Dkt. No. 55], the parties
21 filed a joint motion to extend the expert discovery deadlines ("Expert Discovery Motion").
22 Dkt. No. 56. The Expert Discovery Motion is not opposed by any party. On May 15, 2023,
23 the parties filed a second joint motion to extend the fact discovery deadline for the limited
24 purpose of completing depositions ("Fact Discovery Motion"). Dkt. No. 57. Plaintiff
25 Brian Todd Snelson ("Plaintiff"), Defendant Penske Truck Leasing Co., L.P. ("Penske"),
26 and Plaintiff-In-Intervention Security National Insurance Company ("SNIC") stipulate to
27 the continuance requested in the Fact Discovery Motion. Defendant Daimler Trucks North
28 America, LLC ("Daimler") opposes the Fact Discovery Motion on the grounds that

1 Plaintiff has not demonstrated good cause for a continuance and failed to exercise
2 reasonable diligence in pursuing discovery, which includes taking the Rule 30(b)(6)
3 depositions of several out-of-state witnesses. Moreover, Daimler asserts that it would be
4 prejudiced by an extension of the fact discovery deadline because its counsel and corporate
5 representatives have scheduling conflicts during the proposed deposition timeline.

6 Federal Rule of Civil Procedure 16(b)(4) provides that a pretrial scheduling order
7 “may be modified only for good cause and with the judge’s consent.” “Rule 16(b)’s ‘good
8 cause’ standard primarily considers the diligence of the party seeking the amendment.”
9 *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). “If that party
10 was not diligent, the inquiry should end.”

11 On October 13, 2022, the Court issued the operative Scheduling Order that required
12 the parties to complete all fact discovery by April 13, 2023. Dkt. No. 14 at 3. Thereafter,
13 the Court held status conferences with the parties on December 7, 2022 and March 8, 2023.
14 Dkt. Nos. 18, 31. At the March 8 status conference, the parties raised the issue of extending
15 the fact discovery deadline to take depositions under Rule 30(b)(6), but Plaintiff did not
16 file any such motion prior to April 13, 2023.

17 Plaintiff asserts that he was diligent in seeking discovery because his counsel raised
18 the issue of scheduling depositions under Rule 30(b)(6) with defense counsel in March
19 2023 and was told that Daimler’s Rule 30(b)(6) designee was unavailable until August
20 2023. Dkt. No. 57 at 6-7. Plaintiff further asserts that he “intentionally waited to formally
21 notice the Rule (30)(b)(6) depositions to allow the Defendants to provide dates that would
22 work for their witness(es).” *Id.* at 7. However, Plaintiff offers no reason why he did not
23 seek an extension of the fact discovery deadline to take the Rule 30(b)(6) depositions or
24 why he did not issue subpoenas for the depositions of third-party witnesses Joe Bruni and
25 Jeremy Russell prior to April 13, 2023.

26 The Court concludes that Plaintiff’s counsel did not take reasonable steps to
27 complete fact discovery by the deadline of April 13, 2023. However, declining to extend
28 the fact discovery deadline would adversely affect Plaintiff’s ability to prosecute this case,

1 and the Court is “reluctant to punish” Mr. Snelson for his counsel’s failure to take the
 2 depositions in a timely manner. *Rahbarian v. Cawley*, No. 2:10-CV-00767-TLN, 2013
 3 WL 6271865, at *8 (E.D. Cal. Dec. 4, 2013) (allowing plaintiff additional time to examine
 4 documents because “the Court is reluctant to punish Plaintiffs themselves for the indolence
 5 of their attorney.”).

6 The Court GRANTS the motion to extend the deadline for fact discovery as follows:

EVENT	PRIOR DEADLINE	NEW DEADLINE
Supplemental Expert Designations	May 11, 2023	June 12, 2023
Expert Disclosures	June 8, 2023	July 10, 2023
Rebuttal Expert Disclosures	June 22, 2023	July 24, 2023
Fact Discovery Cutoff	April 13, 2023	June 30, 2023
Expert Discovery Cutoff	July 20, 2023	August 21, 2023
Pretrial Motions Filing Deadline	September 7, 2023	NO CHANGE
Mandatory Settlement Conference	August 8, 2023 at 1:30 p.m.	NO CHANGE
Deadline to Submit Mandatory Settlement Conference Briefs	The parties shall refer to the undersigned’s Mandatory Settlement Conference Procedures.	
Pretrial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(3)	December 11, 2023	NO CHANGE
Meeting of Counsel	December 18, 2023	NO CHANGE
Proposed Pretrial Order to Opposing Counsel	December 22, 2023	NO CHANGE
Lodging of Proposed Pretrial Order	January 2, 2024	NO CHANGE
Pretrial Conference	January 8, 2024 at 11:00 a.m.	NO CHANGE
Motions in Limine	January 22, 2024	NO CHANGE

Responses to Motions in Limine	February 5, 2024	NO CHANGE
Trial Documents Deadline	February 5, 2024	NO CHANGE
Deadline to Exchange Final Exhibit and Witness Lists	October 8, 2024	NO CHANGE
Hearing on Motions in Limine	October 7, 2024 at 10:30 a.m.	NO CHANGE
Trial Date	October 15, 2024 at 9:00 a.m.	NO CHANGE

The Court ORDERS as follows:

1. The parties shall promptly meet and confer regarding a deposition schedule that will allow the parties to complete fact witness depositions on or before June 30, 2023.
2. On or before **May 24, 2023**, the parties shall file a joint status report regarding the fact witness deposition schedule.
3. The Court sets an in-person status conference for **May 26, 2023, at 3:00 p.m.** If the parties are unable to agree on a deposition schedule, the Court will set deposition dates at the status conference. The Court will vacate the status conference if the parties represent in their May 24 joint status report that they have reached agreement on fact witness deposition dates.
4. No further extensions of the pretrial schedule will be permitted absent a showing of extraordinary circumstances.

IT IS SO ORDERED.

Dated: May 18, 2023



Hon. David D. Leshner
United States Magistrate Judge