

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Lewis T. Babcock, Judge

Civil Action No. 12-cv-00172-LTB-KLM

TROY R. ARRINGTON, II,

Plaintiff,

v.

TIMOTHY R. CHAVEZ,

Defendant.

ORDER

This case is before me on Plaintiff's Motion for Leave to File Supplemental Report of Accident Reconstructionist and to File Response to Reply to Response to Motion in Limine Regarding Claim Notes [Doc # 138]. After consideration of the motion, all related pleadings, and the case file, I deny Plaintiff's motion.

Plaintiff first requests that I grant him leave to file a supplemental expert report by an accident reconstructionist in light of an opinion that Defendant's accident reconstructionist, Herbert Newbold, allegedly disclosed for the first time in his July 9, 2013 deposition. Specifically, Plaintiff alleges that Mr. Newbold newly opined that "at impact speeds of 40-45 m.p.h., the post-impact travel distance would be greater."

Defendant responds with convincing evidence that Mr. Newbold's opinions regarding post-impact travel distances were made known to Plaintiff well before Mr. Newbold's July 9, 2013 deposition. Rebuttal expert disclosures were due on May 7, 2013 (*see* Doc #73), and Plaintiff has failed to demonstrate "good cause" to justify further extension of this deadline. *See* Fed. R. Civ. P. 16(b).

Plaintiff next requests that I allow him to file a sur-reply to Defendant's Motion in Limine re: Unreliable Claim Note [Doc # 103] to rebut Defendant's assertion in his reply to the motion that the claim notes were not produced in response to discovery. In his response,

Defendant clarifies that he meant the claim notes, though provided as part of his initial disclosures, were not *created* in response to discovery. With this clarification, no sur-reply by Plaintiff is necessary.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Leave to File Supplemental Report of Accident Reconstructionist and to File Response to Reply to Response to Motion in Limine Regarding Claim Notes [Doc # 138] is DENIED.

Dated: August 29, 2013 in Denver, Colorado.

BY THE COURT:

s/ Lewis T. Babcock
LEWIS T. BABCOCK, JUDGE