

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

BRANIMIR CATIPOVIC,

Plaintiff,

vs.

MARK TURLEY, RONALD FAGEN,
and FAGEN, INC.,

Defendants.

No. C 11-3074-MWB

**ORDER REGARDING PLAINTIFF'S
MOTION FOR EXTENSION OF TIME
TO RESIST DEFENDANT TURLEY'S
MOTION FOR SUMMARY
JUDGMENT**

This case is before me on plaintiff Catipovic's August 21, 2013, Motion For Extension Of Summary Judgment Resistance Deadline (docket no. 74). In his Motion, Catipovic seeks a 30-day extension, to September 30, 2013, to resist defendant Turley's Motion For Summary Judgment (docket no. 68). Catipovic asserts that the extension is necessary to accommodate the international video depositions of defendant Turley and several third-party witnesses, which are scheduled for September 3-5, 2013, to receive and review transcripts of those depositions, and to prepare a full and complete resistance. Catipovic also notes that Turley's Motion For Summary Judgment was filed well before the discovery deadline and the dispositive motions deadline, so that the requested extension will not interfere with the scheduled trial, set to begin April 14, 2014, or require resetting any other pretrial deadlines. Catipovic acknowledges that Turley's counsel had been consulted and does not consent to the requested extension.

On August 23, 2013, Turley did, indeed, file a Resistance (docket no. 75) to Catipovic's request for an extension of his deadline to resist Turley's Motion For Summary Judgment. Turley argues that the delays in the scheduling of the depositions

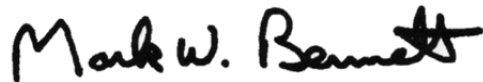
that Catipovic argues necessitate an extension of his deadline to file his resistance are the result of Catipovic's refusal of Turley's offers to be deposed in Hungary, litigation of whether or not Turley should be compelled to appear for depositions in the United States, an eventual court order ruling that Turley did not have to appear for depositions in the United States, and the scheduling of Turley's deposition in Hungary or by videoconference, as Turley had originally offered. Turley also argues that Catipovic's request for an extension of his deadline to resist the Motion For Summary Judgment does not comply with either Rule 56(d) (formerly 56(f)) of the Federal Rules of Civil Procedure or Local Rule 56(h) of the Northern District of Iowa, because no affidavit or declaration satisfying certain requirements of the rules has been filed with Catipovic's Motion.

I conclude that Catipovic's Motion is not in the nature of a routine request for a brief extension of a deadline for good cause, within the meaning of Local Rule 7(k), for example, because counsel is subject to conflicting deadlines in other matters or is otherwise temporarily unavailable to respond in a timely manner, but a request for an extension of time to respond to a summary judgment motion in order to complete further discovery. *See, e.g., Community Voice, L.L.C. v. Great Lakes Commc'n Corp.*, No. C 12-4048-MWB, 2012 WL 3043064, *1-*2 (July 25, 2012). As such, it does not comply with the requirements of either Rule 56(d) of the Federal Rules of Civil Procedure or Local Rule 56(h). Consequently, Catipovic's present Motion will be denied without prejudice to reassertion in full compliance with applicable rules, with the exception that, if refiled by the deadline below, Catipovic's motion for an extension of time to resist Turley's Motion For Summary Judgment will be deemed timely filed, notwithstanding that it was not filed within the fourteen days of the filing of Turley's Motion For Summary Judgment, as required by Local Rule 56(h).

THEREFORE, plaintiff Catipovic's August 21, 2013, Motion For Extension Of Summary Judgment Resistance Deadline (docket no. 74) is **denied without prejudice** to refiling in compliance with Rule 56(d) of the Federal Rules of Civil Procedure and Local Rule 56(h), but if filed **not later than August 27, 2013**, it shall be deemed timely filed, notwithstanding the deadline for such motions in Local Rule 56(h).

IT IS SO ORDERED.

DATED this 23rd day of August, 2013.



MARK W. BENNETT
U.S. DISTRICT COURT JUDGE
NORTHERN DISTRICT OF IOWA