

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

HAL E. CHARPIA, ET AL.

CIVIL ACTION

V.

NO. 16-15404

VANDWELL K. ROBINSON, ET AL.

SECTION F

ORDER AND REASONS

Before the Court is the defendants' renewed motion to continue the trial that is scheduled to begin on July 31, 2017.¹ For the reasons that follow, the motion is DENIED.

Like they did when they filed their original motion to continue the trial, the defendants complain that last minute examinations of the plaintiffs by their treating physicians, combined with the defendants' inability to depose the doctors, discover the information learned during the examinations, and share that information with the defendants' medical experts constitutes prejudice that can be cured by a trial continuance.²

¹ The Court denied without prejudice the defendants' first motion to continue the trial. Although the renewed motion to continue is scheduled for hearing on July 31, 2017, the plaintiffs have filed their opposition.

² Offering another ground supporting a trial continuance, the defendants complain that the plaintiffs' accident reconstruction

The defendants submit that a brief trial continuance would allow the plaintiffs to be examined by their treating physicians as scheduled, then the defendants "can either depose both physicians, or at least provide medical records from these examinations to their experts for review in advance of trial, or both." The plaintiffs counter that a trial continuance would cause them hardship, that the defendants have never been prevented from deposing the plaintiffs' treating physicians, and that the defendants' complaint regarding the last minute nature of the medical examinations has caused no prejudice. On this record, the Court agrees.

According to counsel for the plaintiffs, when the plaintiffs received Dr. Steck's three paragraph update from his 7/24/17 examination of Mr. Charpia early on July 25, 2017, "it was immediately provided to defendants who were able to give it to Dr. Nutik (IME doctor) before his video trial deposition. He was successfully examined and testified on Dr. Steck's latest opinions." The defendants' medical expert, Dr. Williams, examined Mr. Freitez on July 26, Dr. Gladden (the treating physician) will examine him on July 28, and the plaintiffs will receive Dr.


expert failed to comply with a subpoena. This complaint is more fully briefed in the defendants' motion in limine, which will be considered on the morning of trial.

Gladden's notes and immediately turn them over to the defendants, which means that Dr. Williams will testify with the benefit of both his own IME and Dr. Gladden's update notes. The defendants offer no counter argument. Nothing has changed from when the Court denied the original motion to continue.

This is a simple rear-end collision case. The defendants' arguments advanced in support of their renewed motion for a continuance ring hollow. The defendants have failed to demonstrate how they have suffered any prejudice from the plaintiffs' follow-up medical appointments in advance of the trial -- they point to no surprises revealed from these appointments, and their concern that they would not have Dr. Steck's notes prior to their Dr. William's IME has proved incorrect.

The renewed motion to continue the trial is DENIED.

New Orleans, Louisiana, July 27, 2017


MARTIN L.C. FELDMAN
U.S. DISTRICT JUDGE