

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**KENA HARRIS, as Administrators of the)
Estate of Chaungene L. Ward, Deceased,)
and MONICA NOLAN,)**

Plaintiffs,)

v.)

**OLEG VELICHKOV, NERMIN)
DONESKI, MICKEY’S TRUCKING)
EXPRESS, INC., MILCO DONESKI,)
FEDEX NATIONAL LTL, INC., and)
FRESH START, INC.,)**

Defendants.)

8:09CV349

ORDER

On November 23, 2011, per the parties’ request, the undersigned held a telephone conference with counsel of record. At that time, although no formal motion was pending, the parties advised the court of their desire to amend the scheduling order so as to (1) allow Plaintiffs to file an amended complaint to provide a proper party plaintiff for the wrongful death cause of action and to plead a theory of independent negligence against FedEx National and (2) provide Defendants additional time to conduct limited discovery with respect to the allegations contained in the proposed amended complaint. Following the telephone conference, the parties submitted a formal motion requesting this relief ([filing 100](#)).

As explained during the conference, the undersigned will not permit a further amendment to the scheduling order. This case has been pending for more than two-years and the scheduling order has already been amended four times. The undersigned believes that to allow Plaintiffs to file an amended complaint so as to add the theory of independent negligence against FedEx National, and then give Defendants additional time to conduct discovery with respect to this amendment, would unduly delay this litigation.

Accordingly,

IT IS ORDERED:

1. The Joint Motion to Amend Scheduling Order ([filing 100](#)) is denied.
2. The undersigned will, however, give Plaintiffs leave to amend their complaint so as to name a proper party plaintiff for the wrongful death cause of action. Plaintiffs must submit a proposed amended complaint, along with a formal motion to amend, on or before December 1, 2011. No other amendments to the complaint will be permitted.

DATED November 28, 2011.

BY THE COURT:

**S/ F.A. Gossett
United States Magistrate Judge**

NOTICE

A party may object to a magistrate judge's order by filing a Statement of Objections to Magistrate Judge's Order within fourteen days after being served with the order. The objecting party must comply with the requirements of NECivR 72.2.