

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BERNARD STRONG,

Plaintiff,

vs.

SCHENK TRUCKING, INC. and WILLIAM
DECKER,

Defendants.

8:11CV295

ORDER

This matter is before the court on the objection, Filing No. [52](#), to the magistrate judge's order, Filing No. 46. This case involves a vehicle accident. Filing No. [1](#). Plaintiff filed a motion to extend the deadlines for disclosure of expert witnesses because she had been unable to take the deposition of defendant William Decker. Filing No. [44](#). Until that deposition was taken, plaintiff argued she would be unable to designate an expert, if one was needed. Defendants opposed this motion, Filing No. [45](#), on the basis that plaintiff had not shown good cause for such modification of the progression order. The magistrate judge entered a text order, stating he had reviewed the motion and briefs and found the extension should be granted. Filing No. 46. The magistrate judge thereafter entered a new progression order. Filing No. [48](#).

Defendants have filed an objection to the magistrate judge's order. Filing No. [52](#) and Filing No. [53](#). Defendants argue they have been prejudiced by this decision, as now plaintiff gets a "free look" at their expert disclosure and can respond accordingly. Defendants also argue that plaintiff did not show good cause under [Fed. R. Civ. P. 16\(b\)\(4\)](#).

The court has reviewed the filings and finds the decision of the magistrate judge is not contrary to law or clearly erroneous. See [28 U.S.C. § 636\(b\)](#); [Fed. R. Civ. P. 72\(a\)](#); [Edelstein v. Optimus Corp., No. 8:10CV61, 2012 WL 2192292, at *2 \(D. Neb. June 14, 2012\)](#). Nor does the court find any abuse of discretion. [Sherman v. Winco Fireworks, Inc., 532 F.3d 709, 714 \(8th Cir. 2008\)](#). This is plaintiff's first request for an extension, and plaintiff only missed the deadline by a month. The reason given—an inability to take the defendant's deposition in time—appears to be a valid one. Plaintiff has scheduled the deposition of this defendant. Accordingly, the defendants' objections are overruled.

THEREFORE, IT IS ORDERED that defendants' objections, Filing No. [52](#), are overruled.

Dated this 13th day of July, 2012.

BY THE COURT:

s/ Joseph F. Bataillon

United States District Judge