

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:10-CV-069-DCK**

**THE CONTINENTAL INSURANCE** )  
**COMPANY,** )  
 )  
                                  **Plaintiff,** )  
 )  
**v.** )  
 )  
**J.E. HERNDON COMPANY,** )  
 )  
                                  **Defendant.** )  
\_\_\_\_\_ )

**ORDER**

**THIS MATTER IS BEFORE THE COURT** on “Plaintiff’s Motion for Protective Order and/or to Modify the Case Management Plan” (Document No. 20) filed October 5, 2010, and Plaintiff’s “Motion for Protective Order and/or to Quash Subpoena to Plaintiff’s Expert Steven Morris” (Document No. 23) filed October 13, 2010. The parties have consented to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c), and immediate review of these motions is appropriate. Having carefully considered the motions, the record, applicable authority, and the parties’ arguments in a telephone hearing on October 13, 2010, the undersigned will grant the first motion and deny the second motion as moot.

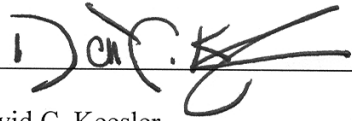
Under the circumstances of this case, including the fact that the time for Defendant to provide its expert report has twice been extended, the undersigned finds that the Case Management Plan should be amended such that the deposition of Plaintiff’s expert, Steven Morris, shall not occur until after **November 1, 2010**, the date Defendant’s expert report is due. See (Document Nos. 17, 19).

**IT IS, THEREFORE, ORDERED** that the “Plaintiff’s Motion . . . to Modify the Case Management Plan” (Document No. 20) is **GRANTED**. The deposition of Plaintiff’s expert shall

be scheduled for a date after **November 1, 2010**.

**IT IS FURTHER ORDERED** that Plaintiff's "Motion for Protective Order and/or to Quash Subpoena to Plaintiff's Expert Steven Morris" (Document No. 23) is **DENIED AS MOOT**.

Signed: October 15, 2010

  
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David C. Keesler  
United States Magistrate Judge

