

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

DARRELL SCOTT RICH,
Plaintiff

Case No. 1:10-cv-682
Spiegel, J.
Litkovitz, M.J.

vs

JOHN R. JURGENSEN CO., INC., et al.,
Defendants

ORDER

This matter is before the Court on defendant John R. Jurgensen Co., Inc.'s motion to compel plaintiff to produce fact and expert witnesses for deposition (Doc. 45), to which plaintiff has not responded. For the reasons that follow, the motion is denied.

Defendant requests an order compelling plaintiff to produce his witnesses for deposition prior to trial. Defendant asserts that “[p]laintiff’s counsel has not provided a single date for a single deposition of his fact and expert witnesses since the deposition of his fact witness, Charles Harpring, on January 17, 2012.” (Doc. 45 at 3). Attached to defendant’s motion is a series of emails from counsel for plaintiff and counsel for defendant regarding the scheduling of deposition dates, among other things. The Court will not attempt to determine who was at fault in not selecting dates for the depositions because defendant’s motion to compel is untimely under the circumstances of this case.

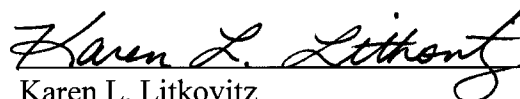
The complaint in this case was filed on October 1, 2010. (Doc. 1). The Court initially set a discovery deadline of June 1, 2011. (Doc. 17). That deadline was extended by Order of the Court to August 1, 2011. (Doc. 28). In November 2011, the Court again extended the

discovery deadline to April 1, 2012. (Doc. 37). Yet, defendant did not file its motion to compel until June 8, 2012, over two months after the expiration of the discovery deadline. (Doc. 45). Defendant did not seek an extension of the discovery deadline before it expired, nor has defendant provided any explanation for its belated motion to compel discovery.

This matter is set for a summary jury trial to commence on July 24, 2012 (Doc. 46) and any extension of the discovery deadline to allow depositions of plaintiff's fact and expert witnesses at this late date would interfere with the scheduling of the summary jury trial. This case has been pending for nearly two years and defendant has failed to justify its failure to conduct necessary discovery or seek Court intervention on any discovery issues at an earlier date. Given defendant's failure to timely move for resolution of the discovery issues in this case, the motion to compel is **DENIED** as untimely.

IT IS SO ORDERED.

Date: 7/10/12


Karen L. Litkovitz
United States Magistrate Judge