
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

JUSTIN HENRY,

Plaintiff,

v.

MICHAEL BLACK,

Defendant.

MEMORANDUM DECISION AND ORDER
GRANTING PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT, AND
DENYING DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

Case No. 2:11-cv-129 DN

District Judge David Nuffer

This case involves a car accident in which Defendant Michael Black rear-ended Plaintiff Justin Henry on Interstate 15 near Salt Lake City, Utah. Plaintiff has asserted a single claim for negligence, alleging Defendant was driving too fast and was not sufficiently attentive.

Plaintiff has moved for partial summary judgment as to Defendant's negligence.¹ In response, Defendant conceded that "he was negligent in the operation of his vehicle, and that his negligence caused the accident."² Accordingly, Plaintiff's Motion for Partial Summary Judgment is GRANTED. The nature and extent of Plaintiff's alleged injuries and damages, and whether they resulted from the accident or from pre-existing conditions, were not part of Plaintiff's summary judgment motion and remain in dispute.

Defendant has also moved for summary judgment on grounds that Plaintiff failed to timely disclose the identity and subject of his testifying experts, as required by footnote 3 of the Scheduling Order,³ and therefore cannot rely on the testimony of his two medical experts (Drs.

¹ Motion for Partial Summary Judgment, docket no. 45, filed Mar. 2, 2012.

² Defendant's Memorandum of Points and Authorities in Opposition to Plaintiff's Motion for Partial Summary Judgment, docket no. 52, filed on Mar. 30, 2012.

³ Scheduling Order at 4 n.3, docket no. 17, filed on May 9, 2011.

Colledge and Anderson) to establish that his alleged injuries resulted from the accident.⁴

Defendant has also moved to strike Plaintiff's untimely expert witness designations,⁵ prompting a similar motion from Plaintiff's counsel concerning Defendant's own untimely designations.⁶ The briefing on these three motions demonstrates a regrettable failure by counsel to cooperate with each other to litigate this case on the merits. Rather than insisting on technical compliance, counsel have lost sight of their primary obligation to "secure the just, speedy, and inexpensive determination of every action and proceeding."⁷

There is still time for the parties to depose each other's experts and to prepare for trial, which is set to begin on December 12, 2012. Accordingly, Defendant's Motion for Summary Judgment, Defendant's Motion to Strike Plaintiff's Untimely Notice of Expert Witnesses and Request for Attorneys' Fees, and Plaintiff's Motion in Limine are DENIED, and the deadline for expert discovery is extended until November 1, 2012 for the sole purpose of deposing the designated testifying experts. Counsel for the parties are admonished to cooperate with each other in timely scheduling, noticing, and completing the depositions of their respective experts.

⁴ Defendant's Motion for Summary Judgment, docket no. 58, dated Jun. 29, 2012.

⁵ Defendant's Motion to Strike Plaintiff's Untimely Notice of Expert Witnesses and Request for Attorneys' Fees, docket no. 60, Jul. 2, 2012.

⁶ Plaintiff's Motion in Limine, docket no. 62, Jul. 10, 2012.

⁷ Fed. R. Civ. P. 1.

ORDER

IT IS THEREFORE ORDERED that Plaintiff's Motion for Partial Summary Judgment (docket no. 45) is GRANTED.

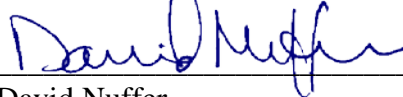
IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment (docket no. 58), Defendant's Motion to Strike Plaintiff's Untimely Notice of Expert Witnesses and Request for Attorneys' Fees (docket no. 60), and Plaintiff's Motion in Limine (docket no. 62) are DENIED.

IT IS FURTHER ORDERED that the deadline for expert discovery in the Scheduling Order is extended until November 1, 2012 for the sole purpose of deposing the testifying experts designated by the parties.

IT IS FURTHER ORDERED that the hearing set in this matter for October 26, 2012, at 8:30 a.m., is STRICKEN.

Dated October 4, 2012.

BY THE COURT:



David Nuffer
United States District Judge