UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

LISA HUFNAGEL, Plaintiff, v. McGRAW-HILL COMPANIES, INC., a corporation, Defendant.	NO. CV-12-579-BAS **ORDER GRANTING DEFENDANT'S MOTION FOR THREE LATE DEPOSITIONS**

Before the Court is Defendant's Motion for Three Late Depositions, ECF No. 39. The motion was heard without oral argument. Plaintiff is represented by Mary Schultz. Defendant is represented by Daniel Thieme and Joanna M. Silverstein.

Defendant asks that the Court grant leave for Defendant to depose Plaintiff's two expert witnesses, and Plaintiff's former manager, Melissa Crimmins, and specifically, that the deposition of Ms. Crimmins take place on June 9 and 10, 2014. Plaintiff opposes the request and asks that discovery be terminated.

The discovery cutoff is currently June 3, 2014. On April 1, 2014, Plaintiff's counsel filed a Notice of Unavailability, indicating that she would be unavailable from April 21, 2014 through June 6, 2014, due to trial. Because the Notice of Unavailability extended through the discovery cutoff, the Notice unilaterally

amended the Court's scheduling and caused the discovery deadline to become April 21, 2014.

Generally, the Court will attempt to honor a Notice of Unavailability. However, asking that a case effectively be stayed for seven weeks is extreme. Here, where the Notice has the effect of modifying the Scheduling Order without prior approval from the Court, the appropriate remedy is to extend the discovery deadline after the date that Plaintiff's counsel is available. Moreover, Plaintiff has not demonstrated she would be prejudiced by the extension of the discovery deadline.

Because good cause exists to grant Defendant's motion, the Court will permit Defendant to conduct the depositions of Melissa Crimmins and Plaintiff's two experts (Barbara Luna and Susan Strauss).

Accordingly, **IT IS HEREBY ORDERED:**

1. Defendant's Motion for Three Late Depositions, ECF No. 39, is **GRANTED**.

2. Defendant is permitted to schedule and take the depositions of Melissa Crimmins, Barbara Luna, and Susan Strauss.

3. The deposition of Melissa Crimmins shall take place on June 9 and 10, 2014.

4. The depositions of Barbara Luna and Susan Strauss shall take place forthwith, and prior to the June 17 dispositive motion deadline.

5. Plaintiff's Motion for a Protective Order, ECF No. 51, is **DENIED**, as moot.

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IT IS SO ORDERED. The District Court Executive is hereby directed to file this Order and provide copies to counsel.

DATED this 2 day of June, 2014.

STANLEY A. BASTIAN
United States District Judge

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