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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CECILIA GOETZ,

                 Plaintiff,

     v.

NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a AMTRAK,

                Defendant.

CASE NO. C18-0093 BHS

ORDER DENYING
DEFENDANT'S MOTION FOR A
PROTECTIVE ORDER AND
GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION TO COMPEL AND
CONTINUE CERTAIN
DEADLINES

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     This matter comes before the Court on Defendant National Railroad Passenger

Corporation's ("Amtrak") motion for a protective order, Dkt. 13, and Plaintiff Cecilia

Goetz's ("Goetz") motion to compel and continue certain deadlines, Dkt. 15. The Court

has considered the pleadings filed in support of and in opposition to the motions and the

remainder of the file and hereby denies Amtrak's motion and grants in part and denies in

part Goetz's motion for the reasons stated herein.

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I. PROCEDURAL AND FACTUAL BACKGROUND

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     On December 18, 2018, Goetz was driving southbound on Interstate 5. That same

morning, Amtrak Train No. 501 was heading south near the highway and entered a corner

at a high rate of speed. The train derailed, and one of its passenger cars struck Goetz's

vehicle. On January 9, 2018, Goetz filed a complaint against Amtrak in King County

ORDER - 1

1   Superior Court for the State of Washington. Dkt. 1-2. Goetz asserts a claim for

2   negligence and seeks general damages as well as "punitive and/or exemplary damages

3   under choice of law principles." *Id.* ¶ 4.1.

4   On January 22, 2018, Amtrak removed the matter to this Court. Dkt. 1.

5   On February 26, 2018, Amtrak answered and conceded that it "will not contest

6   liability for compensatory damages proximately caused by the derailment of Train 501 on

7   December 18, 2017." Dkt. 9, ¶ 3.7.

8   On August 22, 2018, Amtrak filed a motion for a protective order. Dkt. 13.

9   Amtrak seeks an order that limits discovery to compensatory damages or, in the

10   alternative, defers discovery until after the National Transportation Safety Board

11   ("NTSB") issues its final report on the accident. *Id.* On August 23, 2018, Goetz filed a

12   motion to compel and continue certain deadlines. Dkt. 15. On August 29, 2018, Goetz

13   responded to Amtrak's motion. Dkt. 17. On August 31, 2019, Amtrak replied. Dkt. 20.

14   On September 4, 2018, Amtrak responded to Goetz's motion. Dkt. 22. On September 7,

15   2018, Goetz replied. Dkt. 25. On September 17, 2018, the parties filed a stipulated

16   motion to extend certain discovery deadlines. Dkt. 26. On September 25, 2018, the

17   Court granted the stipulated motion, which moots a portion of Goetz's motion. Dkt. 27.

II.   DISCUSSION

19   "Parties may obtain discovery regarding any nonprivileged matter that is relevant

20   to any party's claim or defense and proportional to the needs of the case." Fed. R. Civ. P.

21   26(b)(1). However, "the court must limit the frequency or extent of discovery [if] . . . the

22   proposed discovery is outside the scope permitted by Rule 26(b)(1)." Fed. R. Civ. P.

1 | 26(b)(2)(C). "The court may, for good cause, issue an order to protect a party from . . .

2 | undue burden or expense." Fed. R. Civ. P. 26(c)(1). When a defendant admits liability

3 | for all damages caused to a plaintiff, the court may limit discovery to damages. *See*

4 | *Broncel v. H & R Transp., Ltd.*, 2011 WL 319822, (E.D. Cal. Jan. 28, 2011) (holding that

5 | plaintiff was not entitled to depose defendant Wilson because defendants had already

6 | admitted liability); *Ayat v. Societe Air France*, 2008 WL 114936, (N.D. Cal. Jan. 8, 2008)

7 | (holding further discovery into liability not warranted because defendant did not contest

8 | liability and only asserted three affirmative defenses, all related to damages).

9 | In this case, Amtrak's "discovery" motion is a thinly veiled motion for dispositive

10 | relief. For example, Amtrak argues that the Court should apply "Washington law to the

11 | issue of punitive damages and no discovery on this topic should be permitted." Dkt. 13 at

12 | 10–11. Choice of law, however, is an issue in this case, and Goetz has shown that some

13 | authority exists for the Court to allow punitive damages under another jurisdiction's law.

14 | *See* Dkt. 17 at 7–10. To the extent punitive damages are an issue in this case, discovery

15 | related to this issue is relevant, and Amtrak may only obtain a protective order if it

16 | establishes that the requested discovery is disproportionate to the needs of the case,

17 | otherwise unduly burdensome or unnecessarily expensive, or lacks importance to the

18 | issues at stake. Amtrak has failed to show that any of these circumstances warrant a

19 | limitation on relevant discovery. The same is true of Amtrak's attempt to limit discovery

20 | related to comparative fault. Therefore, the Court denies Amtrak's motion for a

21 | protective order on the relevance of certain discovery.

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1   Amtrak also seeks a stay of some discovery until the NTSB issues its final report.

2   Dkt. 13 at 12. Goetz responds that Amtrak has failed to show that an outright stay of

3   discovery is appropriate as opposed to Amtrak temporarily withholding certain

4   documents and producing a privilege log identifying those documents. Dkt. 17 at 11–12.

5   The Court agrees, and Amtrak should produce unprivileged information as soon as

6   practicable. Regarding privileged information, Amtrak should produce a privilege log of

7   documents under the NTSB's hold and produce that log in due course. In any event,

8   Amtrak has failed to show good cause for a complete stay of discovery pending the

9   NTSB issuing a final report.

10   Based on the foregoing conclusions, the Court grants Goetz's motion on the issue

11   of compelling production. The Court, however, denies the motion as moot on the issue of

12   continuing deadlines because the Court extended these deadlines when it granted the

13   parties' stipulated motion. *See* Dkt. 27.

III. ORDER

15   Therefore, it is hereby **ORDERED** that Amtrak's motion for a protective order,

16   Dkt. 13, is **DENIED** and Goetz's motion to compel and continue certain deadlines, Dkt.

17   15, is **GRANTED in part** on the issue of compelling discovery and **DENIED in part as**

18   **moot** on the issue of continuing deadlines.

19   Dated this 18th day of October, 2018.

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BENJAMIN H. SETTLE
United States District Judge