

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

ROBERT HAGEN and wife,)
DALE HAGEN,)
)
 Plaintiffs,)
)
vs.)
)
U-HAUL CO. OF TENNESSEE;)
KEITH O'BRIEN, INDIVIDUALLY, AND)
D/B/A WEST TENNESSEE MOVING)
COMPANY; RONALD MATHISON,)
INDIVIDUALLY, AND D/B/A GOLDEN)
EAGLE TRANSPORTATION; U-HAUL)
INTERNATIONAL, INC.; U-HAUL CO.)
OF ARIZONA; AND GENERAL MOTORS)
CORPORATION,)
)
 Defendants.)

Case No. 1:08-1197-JDB-egb

**ORDER DENYING MOTION TO EXTEND JOINING PARTIES, AMENDING
PLEADINGS AND INITIAL MOTIONS TO DISMISS DEADLINES, AND ALSO
EXPERT DISCLOSURE DEADLINES, INCLUDING RULE 26 SUPPLEMENTATION
DEADLINES**

On May 27, 2009, Plaintiffs filed their Motion to Extend Deadlines (DE 38), which was referred to the Magistrate Judge for determination on the same day (DE 40). On May 28, 2009, Defendants Ronald Mathisen, Golden Eagle Transportation, and U-Haul International, Inc. filed their Response in Opposition to Plaintiffs' Motion to Extend (DE 42) and Defendant General Motors Corporation filed its Response in Opposition to Plaintiffs' Motion to Extend (DE 44) the following day. As set forth below, Plaintiffs' Motion to Extend Deadlines is DENIED.

Plaintiff's Motion states that the requested extensions are "necessary," yet the only reason set forth in the Motion is that "Plaintiffs have not received adequate discovery responses." Plaintiff has proffered no other reason for needing these extensions.

The Local Rules of the United States District Court for the Western District of Tennessee ("Local Rules") require that:

All motions, including discovery motions but not including motions pursuant to Fed. R. Civ. P. 12, 56, 59 and 60 shall be accompanied by a certificate of counsel affirming that, after consultation between the parties to the controversy, they are unable to reach an accord as to all issues or that all other parties are in agreement with the action requested by the motion. Failure to attach an accompanying certificate of consultation may be deemed good grounds for denying the motion. The certificate must contain the names of participating counsel and the date and manner of consultation. The burden will be on counsel filing the motion to initiate the conference upon giving reasonable notice of the time, place and specific nature of the conference. If an opposing counsel or party refuses to cooperate in the conduct of a conference, counsel must file a certificate to that effect, setting out counsel's efforts to comply with this rule.

LR 7.2(a)(1)(B), Local Rules. The Court requires certificates of consultation to ensure that there is a real dispute that cannot be resolved by the parties. Otherwise, judicial resources are wasted ruling on motions that are, or could be, moot.

Though Plaintiff has filed a certificate of consultation, it only notes that "opposing counsel has not agreed to the relief requested herein." In their Responses, Defense counsel have advised the Court that Plaintiffs' counsel has failed to consult with them regarding the requested extensions in the present Motion, and in fact has repeatedly failed to communicate with them throughout the case. Moreover, while Plaintiffs claim that the extensions are needed due to inadequate discovery responses, Defendant General Motors has stated that "Plaintiffs' counsel have never tried to resolve claims of inadequate discovery with defense counsel, so deficiencies (if any) in GM's discovery responses could be cured without the need for court action." (DE 44,

p.2). The remaining Defendants likewise assert that “Plaintiffs’ counsel have never attempted to contact Defendants’ counsel regarding any alleged discovery deficiencies.” (DE 42, p. 2). As Plaintiffs’ counsel is certainly aware, attorneys should diligently attempt to resolve disputes informally, and they are obligated to consult to resolve disputes in good faith before filing a Motion. A review of the record in this case shows a troubling lack of communication by Plaintiffs’ counsel. Because of Plaintiffs’ counsel’s violation of Local Rule 7.2(a)(1)(B), this Motion is DENIED.

s/ Edward G. Bryant
EDWARD G. BRYANT
United States Magistrate Judge

September 10, 2009
Date