

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
and) No. 4:05-CV-778 CEJ
)
CHRISTOPHER HEMAN)
)
Plaintiff-Intervenor,)
)
)
vs.)
)
DAIMLERCHRYSLER CORPORATION,)
)
Defendant.)

ORDER

This matter is before the Court on the joint motion of the plaintiff and the plaintiff-intervenor to compel. Defendant has responded, and the issues are fully briefed.

A case management order was entered in this case on October 13, 2005, setting deadlines for the completion of discovery (June 16, 2006), reference to alternative dispute resolution (November 15, 2005 through January 17, 2006), and dispositive motions (July 28, 2006). The Court later granted a joint motion by the parties for extension of time in which to complete mediation. More recently, the parties jointly moved to extend the briefing deadlines and trial date by two months in order to accommodate six depositions, noticed by plaintiff a week before the close of discovery. The Court denied the motion for the reason that plaintiffs had eight months in which to notice the depositions, but

delayed doing so until the week before the close of discovery. Plaintiff and plaintiff-intervenor now move to compel defendant to produce witnesses for depositions before August 15, 2006.

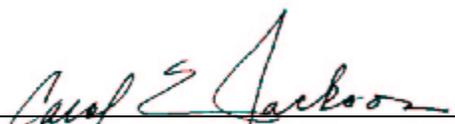
Defendant joined the motion for an extension of time to accommodate the depositions, on the condition that the parties would move for a two-month extension of the dispositive motions deadline and trial date. The extension of time was necessary, the defendant argued, because of the scheduling difficulties imposed by the looming dispositive motions deadline and the proximity of the shutdown of the DaimlerChrysler plant to an earlier proposed trial date. Defendant now claims that compelling it to produce witnesses for depositions "presents significant challenges and prejudice to DaimlerChrysler due to the press of deadlines (including the July 28 dispositive motion deadline) and substantial scheduling issues."

Although the plaintiff and plaintiff-intervenor offered to limit the length and number of depositions they noticed, defendant remains unwilling to accommodate depositions beyond the discovery deadline. It is, of course, the defendant's prerogative to decline to stipulate to an extension of the discovery cut-off set forth in the case management order, in order to have time to prepare a dispositive motion. Plaintiff and plaintiff-intervenor have offered no compelling reason for their failure to take depositions during the eight months allotted for discovery in this case. At this point, the only way to allow the depositions to proceed without prejudicing the defendant would be to adjust the trial date and the deadline for dispositive motions. A district court has

"wide discretion in its handling of discovery matters and its decisions will be upheld 'unless, in the totality of the circumstances, its rulings are seen to be a gross abuse of discretion resulting in fundamental unfairness in the trial of the case.'" O'Neal v. Riceland Foods, 684 F.2d 577, 581 (8th Cir. 1982), quoting Voegeli v. Lewis, 568 F.2d 89, 96 (8th Cir. 1977). The Court remains unwilling to compromise the speedy disposition of this case in the absence of a reasonable justification.

Accordingly,

IT IS HEREBY ORDERED that the plaintiff and plaintiff-intervenor's motion to compel [#36] is **denied**.



CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 24th day of July, 2006.