

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF CHEMUNG

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CAPREECE MOORE	:	
Plaintiff,	:	INDEX NO. 2023/5539
-against-	:	
LESHA P. MASSOUP, DUKE HUR, J.B. HUNT TRANSPORT, INC., and COSTCO WHOLESALE CORPORATION	:	<u>AFFIRMATION</u> <u>IN SUPPORT</u>
Defendants.	:	
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JAMES A. WESCO, ESQ., being an attorney duly admitted to practice in the Courts of the State of New York, affirms the following, pursuant to CPLR §2106, upon information and belief, under the penalties of perjury:

1. I am an attorney with the law firm of Weber Gallagher Simpson Stapleton Fires & Newby, LLP, attorneys for the defendants Duke Hur, J.B. Hunt Transport, Inc., and Costco Wholesale Corporation (“moving defendants”), and am fully familiar with the facts, circumstances, pleadings, and proceedings heretofore had herein.

2. This affirmation is respectfully submitted in Support of moving defendants’ request for an Order pursuant to CPLR §2004, requesting an extension of the deadlines set forth in this Court’s Preliminary Conference Order, dated September 29, 2023, by 30 days.

3. Counsel for moving defendants conferred with the attorneys for plaintiff and defendant, Lesha P. Massoup. All counsel consent to the instant motion.

4. This is an action to recover damages for personal injuries that Plaintiff allegedly sustained from a November 12, 2021 motor vehicle accident.

5. This action was commenced by the filing of a Summons and Complaint on July 25, 2023. On August 24, 2023, defendants Duke Hur and J.B. Hunt Transport, Inc. filed their Answer to the Complaint. On September 6, 2023, defendant Costco Wholesale Corporation filed its Answer to the Complaint.

6. On September 29, 2023, this Court issued the Preliminary Conference Order requiring (i) that all discovery, including depositions, shall be completed by March 29, 2024; and (ii) that plaintiff shall file a trial Note of Issue/Certificate of Readiness on or before April 12, 2024. The September 29, 2023 Preliminary Conference Order is annexed hereto as Exhibit "A."

7. Since the Preliminary Conference Order, the parties have worked diligently in completing discovery in this matter, as outlined below, but additional time will be required to complete the remaining discovery.

8. The parties exchanged initial written discovery, document productions, plaintiff's deposition on November 20, 2023, defendant Lesha Massoup's deposition on December 4, 2023, defendant Duke Hur's deposition on December 5, 2023, and the exchange of post deposition demand responses.

9. Further, moving defendants served subpoenas upon the following 13 third parties, several responses of which remain pending: Lowes, Mercy Medical Cetner, Hostin Orthopaedics & Sports Medicine, PC, Andrew Merola, MD, Macintosh Medical PC, Tristate Chiropractic, American Medical Initiatives, Blessed Hands Chiropractic, Aspire Wellness Physical, Progressive Insurance, Port Authority of NY & NJ, Jaime Gutierrez, MD, and Michael Daniel Jeannition, DC.

10. Further, moving defendants scheduled plaintiff's independent medical examination with Vito Loguidice, MD on Friday, April 5, 2024 at 9:00 a.m. Moving defendants' medical expert

was not available on or before the current discovery deadline of March 29, 2024. Moving defendants' notice of IME is annexed hereto as Exhibit "B."

11. Further, defendant Lesha Massoup is serving or has served a subpoena on the Port Authority officer who was present at the time of the accident, to obtain relevant and material deposition testimony.

12. This Court may grant an extension of the deadlines set forth in the Preliminary Conference Order. CPLR §2004 states, in pertinent part, "the court may extend the time fixed by any statute, rule or order for doing any act, upon such terms as may be just and upon good cause shown, whether the application for extension is made before or after the expiration of the time fixed."

13. Despite the parties' diligent efforts at completing the above-referenced discovery, additional time will be required to complete: (i) plaintiff's independent medical examination; and (ii) the deposition of the non-party Port Authority officer.

WHEREFORE, moving defendants, jointly with all parties in this matter, respectfully request that this Honorable Court grant the relief sought herein for an Order pursuant to CPLR §2004, extending the deadlines set forth in the Preliminary Conference Order by 30 days.

Dated: March 29, 2024
New York, New York.

**WEBER GALLAGHER SIMPSON
STAPLETON FIRES & NEWBY LLP**

By: 

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TO (Via ECF):

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