

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DAVID HASTINGS,

Plaintiff,

v.

Case No: 2:17-cv-145-FtM-99CM

INMATE SERVICES
CORPORATION,

Defendant.

ORDER

This matter comes before the Court upon review of Defendant's Motion for Enlargement of Time to Serve Expert Report filed on November 15, 2018. Doc. 64. Defendant does not state Plaintiff's position on the motion. For the reasons stated below, the motion is granted.

Defendant seeks an extension until December 3, 2018 to serve an expert report to Plaintiff and states that it served Plaintiff with the expert disclosure identifying the expert witness on November 15, 2018. *See* Doc. 64 at 1. Defendant states that no party will be prejudiced by the brief extension and the extension will not affect any other deadlines in the Case Management and Scheduling Order ("CMSO"). *Id.* Defendant's counsel was unable to confer with Plaintiff to ascertain whether he opposes the motion because Plaintiff is currently incarcerated; Defendant states it

will send Plaintiff a letter to ask him whether he opposes the relief requested and will then supplement the motion. *Id.* at 2.¹

Rule 16 requires a showing of good cause for modification of a court's scheduling order. Fed. R. Civ. P. 16(b)(4). Here, the Court finds good cause to grant the motion and allow Defendant until December 3, 2018 to serve its expert report to Plaintiff, as this is Defendant's first request for an extension of time to serve its expert report, Defendant has already served by the required deadline the expert disclosure identifying its expert, and the requested extension is relatively brief. Further, the discovery deadline is not until December 31, 2018, and extending the deadline for Defendant to serve this expert report will not affect any other deadlines in the CMSO. *See* Doc. 40.

ACCORDINGLY, it is

ORDERED:

Defendant's Motion for Enlargement of Time to Serve Expert Report (Doc. 64) is **GRANTED**. Defendant shall have up to and including **December 3, 2018** to serve its expert report to Plaintiff.

¹ Local Rule 3.01(g) requires that each motion filed in a civil case, with certain enumerated exceptions not at issue here, contain a statement "stating whether counsel agree on the resolution of the motion," and further provides that a statement to the effect that counsel for the moving party attempted to confer with the opposing party but the opposing party was unavailable is "insufficient to satisfy the parties' obligation to confer." M.D. Fla. R. 3.01(g). Although the Court finds good cause to excuse the failure to comply this time, Defendant's counsel is admonished that future motions that fail to comply with Rule 3.01(g), including failure to seek Plaintiff's consent in advance of filing the motion, may be denied or stricken on that basis.

DONE and **ORDERED** in Fort Myers, Florida on this 19th day of November,
2018.


CAROL MIRANDO
United States Magistrate Judge

Copies:
Counsel of record
Pro se parties