

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

CAROL MACPHERSON,

Plaintiff,

v.

Case No: 6:17-cv-563-Orl-40TBS

AMICA MUTUAL INSURANCE
COMPANY,

Defendant.

ORDER

This case comes before the Court without a hearing on the parties' Joint Motion to Extend Discovery Deadline and Expert Witness Disclosure Deadlines (Doc. 26).

The parties seek an extension of the deadline for Plaintiff to make her expert witness disclosures. Because that deadline passed before the motion was filed Plaintiff must show excusable neglect. FED. R. CIV. P. 6(b)(1)(B). She has not made this showing.

The parties are asking the Court to modify the Case Management and Scheduling Order ("CMSO") which governs the case. This requires satisfaction of the good cause requirement in FED. R. CIV. P. 16(b)(4). "This good cause standard precludes modification unless the schedule cannot 'be met despite the diligence of the party seeking the extension.'" Sosa v. Airprint Systems, Inc., 133 F.3d 1417, 1418 (11th Cir. 1998) (quoting FED. R. CIV. P. 16 advisory committee note). "If [a] party was not diligent, the [good cause] inquiry should end." Id. (quoting Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992)). The CMSO informed the parties that: "Motions for an extension of other deadlines established in this order, including motions for an extension of the

discovery period, are disfavored. The deadline will not be extended absent a showing of good cause. FED. R. CIV. P. 16(b).” (Doc. 15 at 6).

As grounds for their motion, the parties state that Defendant’s expert orthopedic surgeon was not available to perform a compulsory medical examination of Plaintiff prior to December 13, 2017, and that Plaintiff requires more time to determine the treating physicians she will rely on and disclose to Defendant (Id., ¶¶ 3-4). The parties have failed to show that they have been diligent and that these things could not have been accomplished within the deadlines established in the CMSO.

For these reasons, the motion is **DENIED without prejudice**. The parties may refile their motion if they can satisfy the requirements of Rules 6 and 16.

DONE and **ORDERED** in Orlando, Florida on November 21, 2017.



THOMAS B. SMITH
United States Magistrate Judge

Copies furnished to Counsel of Record