

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION**

ANTHONY BACKHURST and ANGEL  
CRUZ,

Plaintiffs,

v.

Case No: 2:18-cv-61-FtM-99UAM

LEE COUNTY,

Defendant.

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**ORDER**

This matter comes before the Court upon review of the Joint Motion for Extension of Case Management Deadlines, construed as a Motion to Amend the Case Management and Scheduling Order (“CMSO”) filed on March 1, 2019. Doc. 42. The parties request to extend the CMSO deadlines by 90 days. *Id.* at 2. For the reasons stated below, the motion is granted.

Rule 16 requires a showing of good cause for modification of a court’s scheduling order. Fed. R. Civ. P. 16(b)(4). “The diligence of the moving party should be considered in determining whether there is good cause to extend a deadline.” *Jozwiak v. Stryker Corp.*, No. 6:09-cv-1985-Orl-19GJK, 2010 WL 743834, at \*2 (M.D. Fla. Feb. 26, 2010). In other words, the moving party must demonstrate it could not meet the deadline despite its diligent efforts. *Sosa v. Airprint Sys., Inc.*, 133 F.3d 1417, 1418 (11th Cir. 1998); *Idearc Media Corp. v. Kimsey & Assocs., P.A.*, No. 807-CV-1024-T-17EAJ, 2009 WL 413531, at \*2 (M.D. Fla. Feb. 18, 2009). District courts have broad discretion when managing their cases, including discovery and scheduling. *Johnson v. Bd. of Regents of Univ. of Ga.*, 263 F.3d 1234, 1269 (11th Cir. 2001).

Here, the parties seek to extend the remaining deadlines in the CMSO (Doc. 23) by 90 days, as indicated below:

|  | <b>CMSO Deadline</b> | <b>Proposed Deadline</b>  |
|--|----------------------|---|
| <b>Discovery Deadline</b>  | March 11, 2019       | June 11, 2019   |
| <b>Mediation</b>   | March 25, 2019       | June 25, 2019   |
| <b>Dispositive Motions, <i>Daubert</i> Motions and <i>Markman</i> Motions</b>  | May 9, 2019          | August 9, 2019  |
| <b>Meeting <i>In Person</i> to Prepare Joint Final Pretrial Statement</b>  | August 5, 2019       | November 5, 2019  |
| <b>Joint Final Pretrial Statement (Including a Single Set of Jointly Proposed Jury Instructions and Verdict Form (a Word version should also be e-mailed to the Chambers e-mail address listed on the Court's website), Voir Dire Questions, Witnesses Lists, and Exhibit Lists on Approved Form found on the Court's website)</b> | August 19, 2019      | November 19, 2019   |
| <b>All Other Motions (including motions <i>in limine</i>) and Trial Briefs (non-jury trials)</b>   | August 26, 2019      | November 26, 2019   |
| <b>Final Pretrial Conference</b>   | September 16, 2019   | To be determined by Court based on deadlines above              |
| <b>Trial Term</b>  | October 7, 2019      | To be determined by Court based on deadlines above <sup>1</sup> |

The parties explain that they have diligently been conducting discovery and attempting to resolve the matter, but need more time for both. Doc. 42 at 2. Given the delays in discovery, the fact that Defendant's responsive pleading to the Second Amended Complaint is not due to be filed until March 13, 2019, which may change the parties' discovery plan, and that this is the parties' first request to amend the CMSO, the Court finds good cause to grant the motion and extend the deadlines by 90 days.

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<sup>1</sup> The Court notes that the parties propose a February 2020 trial term in the motion, but a 90-day extension of the current trial term would put the trial in January 2020. See Doc. 42 at 2-3.

ACCORDINGLY, it is

**ORDERED:**

1. The Joint Motion for Extension of Case Management Deadlines, construed as a Motion to Amend the Case Management and Scheduling Order (Doc. 42) is **GRANTED**.
2. An amended case management and scheduling order will be issued by separate Order.

**DONE** and **ORDERED** in Fort Myers, Florida on this 4th day of March, 2019.

  
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DOUGLAS N. FRAZIER  
UNITED STATES MAGISTRATE JUDGE

Copies:  
Counsel of record