

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

AMY C. ANDREWS,

Plaintiff,

v.

Case No: 6:18-cv-461-Orl-41TBS

RON MCMAHAN and AMERICAN  
MORTGAGE INVESTMENT PARTNERS  
MANAGEMENT LLC,

Defendants.

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**ORDER**

This case comes before the Court without a hearing on the parties' Joint Motion to Reopen Discovery (Doc. 36). The parties held their initial case management conference on July 5, 2018 (Doc. 19 at 3). At that time, they agreed that all discovery would be completed by February 1, 2019 (*Id.*, at 2). The Case Management and Scheduling Order ("CMSO") governing this case adopted the February 1, 2019 deadline; set a March 1, 2019 deadline for dispositive motions; and set the case for trial during the term beginning August 5, 2019 (*Id.*, at 1-2).

The parties represent that at the March 5, 2019 hearing on Defendants' motion to dismiss the Court suggested that this controversy "may be more appropriate for a motion for summary judgment when discovery is completed." (Doc. 36, ¶ 7). This Court does not know what to make of this comment since discovery had closed before it was made.

Defendants propounded a request for production to Plaintiff on March 18, 2019 (*Id.*, ¶ 8). The Court does not know whether Plaintiff complied with the request. The Court also does not know if the parties have engaged in any other discovery. Now, the parties

are asking the Court to reopen discovery and set a new deadline of June 5, 2019 (Id., ¶ 13).

Granting the parties' motion would require modification of the CMSO. The CMSO "may be modified only for good cause and with the judge's consent." FED. R. CIV. P. 16(b)(4). The "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). The parties have not made this showing. They have had from July 5, 2018 to February 1, 2019, a total of 6 months and 28 days to engage in any and all discovery they deemed necessary. Their unexplained failure to do so does not warrant modification of the CMSO. And, because the deadline for dispositive motions has passed, any additional discovery could not be used for that purpose. For these reasons, the parties' joint motion is **DENIED**.

**DONE and ORDERED** in Orlando, Florida on March 22, 2019.



THOMAS B. SMITH  
United States Magistrate Judge

Copies furnished to Counsel of Record