

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

PAULA CRAWFORD,

Plaintiff,

vs.

Civil Action 2:10-CV-258
Judge Smith
Magistrate Judge King

JPMORGAN CHASE & CO.,

Defendants.

OPINION AND ORDER

This is an employment action in which plaintiff asserts claims of violation and retaliation under the FMLA, 29 U.S.C. §2601 *et seq.*, of disability discrimination, race discrimination and retaliation under O.R.C. §4112.01 *et seq.*, and of invasion of privacy. This matter is now before the Court on plaintiff's motion for an extension of time, in which she asks that the discovery completion period be extended by two (2) months or until October 31, 2011. *Motion for Extension of Time to Conduct Discovery*, Doc. No. 36 ("*Motion for Extension*").

On July 1, 2010, the Court conducted a preliminary pretrial conference pursuant to the provisions of Fed. R. Civ. P. 16(b). Following that conference, the Court issued an order directing, *inter alia*, that all discovery be completed by January 31, 2011. *Preliminary Pretrial Order*, at 2, Doc. No. 8. Thereafter, plaintiff's counsel withdrew from this action. *Order*, Doc. No. 13. The Court

held a status conference, in which the *pro se* plaintiff participated, and extended the case deadlines, including setting a new discovery deadline of April 15, 2011. *Order*, Doc. No. 17.

On January 27, 2011, new counsel entered an appearance for plaintiff. *Notice*, Doc. No. 19. On March 7, 2011, the Court held a status conference and all parties were represented. *Order*, Doc. No. 31. At plaintiff's new counsel's request, and without objection from defense counsel, the Court issued an order after the conference that extended the existing pretrial schedule. *Id.* at 1. Specifically, the Court ordered that all discovery be completed no later than August 31, 2011 and that motions for summary judgment be filed no later than September 30, 2011. *Id.* at 1. The Court noted that the case would be available for final pretrial conference in January 2012. *Id.* The Court specifically advised that it "will not expect a request to further extend the pretrial schedule in this case." *Id.* at 2.

On August 14, 2011, approximately two weeks before the discovery deadline, plaintiff filed her *Motion for Extension*, in which she asks that the discovery period be extended by two (2) months or until October 31, 2011 and that the deadline for filing dispositive motions be extended two (2) months or until November 28, 2011. *Motion for Extension*, p. 2. Defendant opposes the requested extension. *Defendant's Memorandum in Opposition to Motion for Extension of Time to Conduct Discovery Filed by Plaintiff's Counsel*, Doc. No. 37.¹

¹Plaintiff's counsel has contacted the undersigned on several occasions to inquire about the status of the *Motion for Extension*, expressing an interest in a quick resolution. Based on that communication, and the implication that plaintiff does not plan to file a reply memorandum, this matter is ripe for resolution.

Rule 16(b) of the Federal Rules of Civil Procedure requires that the Court, in each civil action not exempt from the operation of the rule, to enter a scheduling order that limits the time to, *inter alia*, complete discovery and file motions. Fed. R. Civ. P. 16(b)(1), (b)(3)(A). The rule further provides that “[a] schedule may be modified only for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). “[A] court choosing to modify a schedule upon a showing of good cause may do so only ‘if it cannot reasonably be met despite the diligence of the parties seeking the extension.’” *Leary v. Daeschner*, 349 F.3d 888, 906 (6th Cir. 2003). “Another important consideration for a district court deciding whether Rule 16’s ‘good cause’ standard is met is whether the opposing party will suffer prejudice by virtue of the amendment.” *Id.* (citing *Inge v. Rock Fin. Corp.*, 281 F.3d 613, 625 (6th Cir. 2002)).

In the motion for extension of time, plaintiff represents that she has responded to defendant’s document requests and that “Defendant’s Counsel has been cooperative in providing joint documents in their discovery.” *Motion for Extension*, p. 2. Plaintiff seeks “an extension due to the litigation calendar of Plaintiff’s Counsel and the necessity to conduct minor documentary discovery as well as take deposition[s] of 4-5 witnesses.” *Id.* However, nowhere in the motion does plaintiff ever explain why she was unable to meet the discovery completion deadline previously established by this Court. Moreover, it is not apparent that the seven months provided for discovery by the Court’s most recent *Order*, Doc. No. 31, since new counsel entered an appearance in January, in addition to the six month discovery period prior to that appearance, was insufficient to conduct all appropriate

discovery by plaintiff. Indeed, defendant represents that plaintiff, who was specifically warned at the last status conference that there would be no more extensions, has conducted no discovery since new counsel entered an appearance in January 2011. Doc. No. 37, p. 2. Plaintiff's failure to establish good cause is therefore fatal to the request. Finally, defendant argues, and this Court does not disagree, that extending the discovery deadline a third time under these circumstances prejudices defendant who has been defending this case since March 2010. *Id.* at 2-3.

For all these reasons, then, plaintiff's motion for an extension of time, Doc. No. 36, is **DENIED**. The deadlines for completing discovery, August 31, 2011, and filing motions for summary judgment, September 30, 2011, remain unchanged.

August 17, 2011

s/Norah McCann King
Norah M^cCann King
United States Magistrate Judge