

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>PHILLIP CROW,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>CIVIL ACTION NO. 07-0740-KD-C</b>
	)	
<b>COOPER MARINE &amp; TIMBERLANDS</b>	)	
<b>CORPORATION,</b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER**

This matter is before the court on plaintiff’s unopposed motion to amend the scheduling order and for an extension of discovery. (doc. 40) Upon consideration, the motion is DENIED.

Plaintiff seeks a general continuance of the trial date<sup>1</sup> as well as a ninety (90) day extension of time in which to conduct discovery.<sup>2</sup> Specifically, plaintiff seeks to depose two individuals, William Butler and Don E. Beach, M.D.<sup>3</sup> Plaintiff represents that counsel for defendant has no objection to the motion.

Paragraph 2 of the amended scheduling order states:

2. DISCOVERY COMPLETION DATE. All discovery is to be completed on or before November 4, 2008. Requests for extension will be viewed with great disfavor and will not be considered except upon a showing (1) that *extraordinary circumstances require it* and (2) that *the parties have diligently pursued discovery*.

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<sup>1</sup> This action is presently set for jury selection on March 3, 2009 with trial before the undersigned during the month of March.

<sup>2</sup> In June 2008, plaintiff sought, and was granted, a ninety (90) day extension of time in which to complete discovery. (See docs. 23, 24)

<sup>3</sup> Pursuant to the Amended Rule 16(b) Scheduling Order entered June 30, 2008, discovery ended on November 4, 2008. (See doc. 24)

(Doc. 24 at p. 1 )(emphasis added) Plaintiff asserts that he has diligently pursued discovery and just recently located William Butler, an individual disclosed by defendant in July 2008, but that Mr. Butler will not be available for deposition until the end of January. Additionally, plaintiff seeks to depose his own general physician, Dr. Beach, on the grounds that defendant, in its counterclaim for recoupment of maintenance and cure, has created a new issue that plaintiff's injury to his left knee was caused by an injury pre-dating his return to the M/V CRIMSON WHITE and the physician is needed to refute this assertion.<sup>4</sup>

Discovery ended in this action well over two months ago. The pretrial conference is scheduled for February 11, 2009 and the parties' joint pretrial document is due in two weeks (February 4, 2009). The court finds that plaintiff has not identified extraordinary circumstances that would justify either an extension of the discovery deadline or a continuance of the trial at this late date.<sup>5</sup>

DONE this the 22<sup>nd</sup> day of January, 2009.

/s/ Kristi K. DuBose  
**KRISTI K. DuBOSE**  
**UNITED STATES DISTRICT JUDGE**

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<sup>4</sup> By order dated January 15, 2009, the undersigned granted plaintiff's motion for partial summary judgment on defendant's counterclaim for recoupment of maintenance and cure. (See doc. 39)

<sup>5</sup> This ruling does not prevent the parties from conducting the depositions. The parties may agree to conduct the additional depositions. However, the court will not intervene if problems arise. (See Introduction to Civil Discovery Practice in the Southern District of Alabama (1998) which is available on the website for the United States District Court, Southern District of Alabama, [www.als.uscourts.gov](http://www.als.uscourts.gov))