

1 **WO**

2

3

4

5

6

IN THE UNITED STATES DISTRICT COURT

7

FOR THE DISTRICT OF ARIZONA

8

9

Steve G. Thomas,

)

No. CV-10-901-PHX-GMS

10

Plaintiff,

)

**ORDER**

11

vs.

)

12

Wells Fargo Bank, N.A., et al,

)

13

Defendants.

)

14

\_\_\_\_\_

15

16

Pending before the Court is Plaintiff Steve G. Thomas’ Motion for Leave to File Second Amended Complaint (Doc. 75). The Court imposed a deadline in its Case Management Order for all amendments to be filed prior to January 12, 2010. Pursuant to that same scheduling order the deadlines set for engaging in discovery and for filing case dispositive motions has long since expired.

21

While motions to amend are generally governed by Federal Rules of Civil Procedure 15(a), “Rule 16 also applies because plaintiff requested leave to amend his complaint after the Rule 16 scheduling order deadline expired.” *TriQwint Semiconductor, Inc. v. Avago Technologies Limited, et al.*, No. CV-09-01531-PHX-JAT, (2010 U.S. District Lexis 89690\*15 D. Ariz., August 3, 2010). Federal Rule 16(b) provides that “the scheduling order must limit the time to amend the pleadings” in its schedule and that such schedule “may be modified only for good cause with the judge’s consent.” Federal Rules of Civil Procedure 16(b)(3)(A), (B)(4) “unlike Rule 15(a)’s liberal amendment policy which focuses on the bad

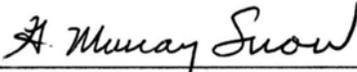
28

1 faith of the party seeking to interpose an amendment and the prejudice to the opposing party,  
2 Rule 16(b)'s good cause standard primarily considers the diligence of the party seeking  
3 amendment." *Hulstedt v. City of Scottsdale, et al.*, No. CV-09-1258-PHX-GMS, (2011 U.S.  
4 District Lexis 73530 \*4-5 D. Ariz. July 7, 2011). "Although the existence or degree of  
5 prejudice to the party opposing the modification might supply additional reasons to deny a  
6 motion the focus of the inquiry is upon the moving party's reasons for seeking modification  
7 . . . if that party was not diligent the inquiry should end." *Id.*

8 Plaintiff provides no good cause for seeking to amend his complaint at this late date.  
9 The reasons provided suggest no reason why he could not have earlier sought such  
10 amendment.

11 **IT IS THEREFORE ORDERED** that the Motion for Leave to File Second Amended  
12 Complaint (Doc. 75) is denied.

13 DATED this 28th day of October, 2011.

14  
15   
16 \_\_\_\_\_  
17 G. Murray Snow  
18 United States District Judge  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28