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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Jonathan Paolino,

10 Plaintiff,

11 v.

12 US Airways Incorporated,

13 Defendant.
14

No. CV-14-01672-PHX-NVW

ORDER

15 Before the court is the Motion to Extend Plaintiff's Expert Disclosure Deadline
16 (Doc. 41). Plaintiff's prior counsel withdrew from this case on March 13, 2015, two
17 weeks after the initial deadline for disclosing expert witnesses lapsed on February 27,
18 2015. (Doc. 34; Doc. 30 at 2.) Plaintiff's current counsel entered an appearance on
19 March 18, 2015, and moved without opposition to extend certain discovery deadlines
20 later that day. (Docs. 36, 37.) The proposed revised scheduling order that Plaintiff
21 attached to that motion noted that the deadline for his expert disclosures had already
22 passed (Doc. 37-1 at 2), as did the Amended Scheduling Order issued by the court (Doc.
23 40 at 2.) Now, three weeks after obtaining a new schedule, Plaintiff seeks to extend the
24 deadline for his initial expert disclosures to April 22, 2015.

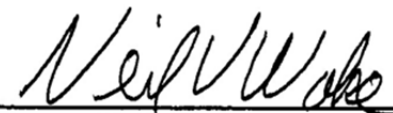
25 Plaintiff cannot show sufficient justification for such an extension. Prior counsel
26 apparently determined, in their professional judgment, that experts were unnecessary to
27 Plaintiff's case. That Plaintiff did not personally acquiesce in this decision is irrelevant.
28 Litigants are bound by their attorneys' conduct, and retention of new counsel who views

1 the case differently does not entitle them to reset the court's clear case management
2 deadlines, on which opposing parties must be able to rely. Even if prior counsel's
3 determination was in error, it does not follow that Plaintiff's Motion should be granted;
4 tactical misjudgments are not a license to prolong litigation. In any event, it is not clear
5 that Plaintiff must call experts in order to prevail. Plaintiff does not explain exactly what
6 types of experts he would call, or how those experts would be crucial to proving either
7 causation or damages. A bare assertion that Plaintiff "needs expert testimony to prove
8 his case under the ADA" (Doc. 41 at 5) is unpersuasive.

9 Amending the scheduling order again at this late date could also prejudice
10 Defendant. From the time this action was filed in July 2014 until the original disclosure
11 deadline in February 2015, prior counsel had seven months to locate possible expert
12 witnesses. After stipulating to Plaintiff's March 18, 2015 Motion to Extend Discovery
13 Deadlines (Doc. 37), which recited that Plaintiff's time for disclosing expert witnesses
14 had passed, Defendant should be free to focus on preparing its own case, rather than
15 anticipating testimony from untimely witnesses. The court would not have granted that
16 motion had Plaintiff made clear he would later attempt to use it to obtain extension of a
17 contested deadline to which Defendant did not consent.

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19 IT IS THEREFORE ORDERED that the Motion to Extend Plaintiff's Expert
20 Disclosure Deadline (Doc. 41) is denied.

21 DATED this 9th day of April, 2015.

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25 Neil V. Wake
26 United States District Judge
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