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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Lisa Schauwecker, et al.,

10 Plaintiffs,

11 v.

12 State of Arizona, et al.,

13 Defendants.
14

No. CV-18-01062-PHX-DWL (ESW)

ORDER

15 Pending before the Court is the parties' Stipulation for Extension of Time for
16 Defendant Caldera to Disclose the Identity of His Expert Witness (Doc. 98). Defendant
17 Caldera requests that the Court extend again the deadline for disclosure of expert witnesses.

18 The Court issued its Case Management Order (Doc. 26) on August 1, 2018.
19 Defendants' expert witness disclosure deadline was set for May 24, 2019 (Id. at 3). On
20 May 16, 2019, the Court extended Defendants' expert witness disclosure deadline to June
21 7, 2019 for good cause shown (Doc. 93 at 1). The Court denied the parties' request to stay
22 the deadlines in this case pending resolution of additional dispositive motions (Doc. 96).

23 The Court has broad discretion in supervising the pretrial phase of litigation. *See*
24 *Zivhovic v. Southern California Edison Co.*, 302 F.3d 1080 (9th Cir. 2002). Under Rule
25 16(b) of the Federal Rules of Civil Procedure, a district court is required to establish a
26 schedule that sets pretrial deadlines. A Rule 16 scheduling order may be "modified only
27 for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). This is because
28 "[a] scheduling order is not a frivolous piece of paper, idly entered, which can be cavalierly

1 disregarded by counsel without peril.” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d
2 604, 610 (9th Cir. 1992) (citation and internal quotations marks omitted). “Disregard of the
3 order would undermine the court’s ability to control its docket, disrupt the agreed-upon
4 course of the litigation, and reward the indolent and the cavalier.” *Id.* Rule 16(b)’s ‘good
5 cause’ standard primarily considers the diligence of the party seeking the amendment. *Id.*
6 at 609. If the movant “was not diligent, the inquiry should end.” *Id.* “Moreover,
7 carelessness is not compatible with a finding of diligence and offers no reason for a grant
8 of relief.” *Id.*


9 If a pretrial schedule cannot be met despite the diligence of the party seeking an
10 extension of time, the Court may modify its scheduling order. *See* MILLER & KANE,
11 FEDERAL PRACTICE AND PROCEDURE § 1522.1 at 231 (2d ed. 1990) (good cause
12 means scheduling deadlines cannot be met despite party’s diligence). Prejudice to the
13 opposing party may supply additional reasons to deny an extension, but the focus of the
14 inquiry is on the moving party’s reasons for seeking modification. *Johnson*, 975 F.2d
15 at 609. “Parties must understand that they will pay a price for failure to comply strictly
16 with scheduling and other orders[.]” *Wong v. Regents of the Univ. of Cal.*, 410 F.3d
17 1052, 1060 (9th Cir. 2005).

18 The parties state no cause at all for further extension of Defendant Caldera’s expert
19 witness disclosure deadline, much less good cause. No due diligence has been shown, and
20 the inquiry ends.

21 Therefore,

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23 **IT IS ORDERED** denying without prejudice the parties’ Stipulation for Extension
24 of Time for Defendant Caldera to Disclose the Identity of His Expert Witness (Doc. 98).

25 Dated this 29th day of July, 2019.

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27 
28 Honorable Eileen S. Willett
United States Magistrate Judge