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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Clarendon America Insurance Company, et
10 al.,

11 Plaintiffs,

12 v.

13 R.E.P. Custom Builders Incorporated, et al.,

14 Defendants.

No. CV-20-08078-PCT-DJH

ORDER

15 Pending before the Court is Defendants' Motion for Leave to Depose Plaintiffs'
16 Corporate Representative(s) After Discovery Cutoff Date (Doc. 67). Plaintiffs have filed
17 a Response in Opposition (Doc. 69), and Defendants have filed a Reply (Doc. 71). The
18 Court denies the Motion because Defendants have not demonstrated diligence in seeking
19 discovery.

20 Under the Court's prior Order, discovery in this matter was due to close by August
21 13, 2021, and dispositive motions were due by December 10, 2021. (Doc. 53). On
22 September 14, 2021, Plaintiff Praetorian Specialty Insurance Company filed a Motion for
23 Summary Judgment (Doc. 57). Also on September 14, Defendants filed a Motion to
24 Extend Discovery Deadlines (Doc. 58). The Court denied the Motion for lacking good
25 cause, but it granted leave to refile once the Motion for Summary Judgment was ripe, which
26 it is now. (Doc. 63). Such leave was granted under the understanding that both parties
27 agreed some expense may be saved depending on the Motion for Summary Judgment's
28 outcome. (*Id.*)

1 To amend a scheduling order requires a showing of good cause. Fed. R. Civ. P.
2 16(b)(4). This standard “primarily considers the diligence of the party seeking the
3 amendment.” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).
4 “The district court may modify the pretrial schedule ‘if it cannot reasonably be met despite
5 the diligence of the party seeking the extension.’” *Id.* (quoting Fed. R. Civ. P. 16 advisory
6 committee’s notes (1983 amendment)).

7 Defendants seek to depose Plaintiffs’ corporate representatives, whom Defendants
8 represent were not deposed earlier because Defendants “did not have the complete claims
9 and underwriting files” related to this matter. (Doc. 67 at 3). Previously, the Court found
10 that Defendants did not demonstrate diligence in acquiring these files. (Doc. 63 at 2).
11 Defendants have presented no other justification showing that they diligently sought these
12 proposed depositions. Therefore, the Court sees no reason to change its finding that
13 Defendants have not demonstrated diligence.

14 Accordingly,

15 **IT IS HEREBY ORDERED** that Defendants’ Motion (Doc. 67) is **DENIED**.

16 Dated this 10th day of May, 2022.

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19 
20 Honorable Diane J. Humetewa
21 United States District Judge
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