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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 CLYDE GOLDEN, INDIVIDUALLY, AND  
12 ON BEHALF OF ALL OTHERS SIMILARLY  
SITUATED,

13 Plaintiffs,

14 v.

15 HOME DEPOT, U.S.A., INC.

16 Defendant.  
17

Case No. 1:18-cv-00033-LJO-JLT

ORDER DENYING STIPULATION TO  
AMEND THE CASE SCHEDULE  
(Doc. 41)

18 Yesterday, counsel have filed a stipulation seeking to allow depositions to be taken beyond the  
19 deadline, which was yesterday. (Doc. 41) In the stipulation, they have failed to demonstrate good cause  
20 for the schedule amendment and, in fact, make no effort toward doing so. Rather, they state only that  
21 scheduling depositions has been “difficult” without showing how long they have been attempting to  
22 schedule the depositions or the nature of the difficulties.

23 Once entered by the court, a scheduling order “controls the course of the action unless the court  
24 modifies it.” Fed. R. Civ. P. 16(d). According to Fed. R. Civ. P. 16(b)(3), a case schedule may be  
25 modified only for good cause and only with the judge’s consent. Fed. R. Civ. P. 16(b). In Johnson v.  
26 Mammoth Recreations, Inc., 975 F.2d 604, 610 (9th Cir. 1992), the Court explained,

27 . . . Rule 16(b)’s “good cause” standard primarily concerns the diligence of the party seeking the

1 amendment. The district court may modify the pretrial schedule “if it cannot reasonably be met despite  
2 the diligence of the party seeking the extension.” Fed.R.Civ.P. 16 advisory committee’s notes (1983  
3 amendment) . . . [T]he focus of the inquiry is upon the moving party’s reasons for seeking modification. .  
4 . If that party was not diligent, the inquiry should end. Johnson, at 609.

5 Parties must “diligently attempt to adhere to that schedule throughout the subsequent course of  
6 the litigation.” Jackson v. Laureate, Inc., 186 F.R.D. 605, 607 (E.D. Cal. 1999); see Marcum v. Zimmer,  
7 163 F.R.D. 250, 254 (S.D. W.Va. 1995). In part, the “good cause” standard requires the parties to  
8 demonstrate that “noncompliance with a Rule 16 deadline occurred or will occur, notwithstanding her  
9 diligent efforts to comply, because of the development of matters which could not have been reasonably  
10 foreseen or anticipated at the time of the Rule 16 Scheduling conference . . .” Jackson, 186 F.R.D. at  
11 608, emphasis added. The stipulation utterly fails to demonstrate good cause. Thus, the Court

12 **ORDERS:**

- 13 1. The stipulation to amend the case schedule (Doc. 41) is **DENIED**.

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15 IT IS SO ORDERED.

16 Dated: June 18, 2019

17 /s/ Jennifer L. Thurston  
18 UNITED STATES MAGISTRATE JUDGE  
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