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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EDUARDO GARCIA PLIEGO,
Plaintiff,
v.
WALMART, INC.
Defendant.

Case No. 1:23-cv-00858-NODJ-CDB

ORDER DENYING WITHOUT PREJUDICE
STIPULATED REQUEST TO CONTINUE
DISCOVERY AND PRETRIAL MOTION
DEADLINES

(Doc. 14)

On April 27, 2023, Plaintiff Eduardo Garcia Pliego (“Plaintiff”) initiated this action against Defendant Walmart, Inc. (“Defendant”) in Kern County Superior Court. (Doc. 1). On June 5, 2023, Defendant removed the action to this Court. *Id.* The Court issued a scheduling order in this matter on August 31, 2023. (Doc. 10).

Pending before the Court is the parties’ stipulated request for a four-month continuance of all discovery deadlines and pretrial motion filing dates. (Doc. 14). The parties request no change to the scheduled pretrial conference and trial dates. *Id.*

Standard of Law

District courts enter scheduling orders in actions to “limit the time to join other parties, amend the pleadings, complete discovery, and file motions.” Fed. R. Civ. P. 16(b)(3). Once entered, a scheduling order “controls the course of the action unless the court modifies it.” Fed. R. Civ. P. 16(d). Scheduling orders are intended to alleviate case management problems. *Johnson*

1 *v. Mammoth Recreations, Inc.*, 975 F.2d 604, 610 (9th Cir. 1992).

2 Under Federal Rule of Civil Procedure 16(b), a scheduling order “may be modified only
3 for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). As the Court of Appeals
4 has observed: “... trial courts in both the federal and state systems routinely set schedules and
5 establish deadlines to foster efficient treatment and resolution of cases. Those efforts will be
6 successful only if the deadlines are taken seriously by the parties, and the best way to encourage
7 that is to enforce the deadlines.” *Wong v. Regents of Univ. of Cal.*, 410 F.3d 1052, 1060 (9th Cir.
8 2005). “Rule 16(b)’s ‘good cause’ standard primarily considers the diligence of the party seeking
9 the amendment.” *Johnson*, 975 F.2d at 609. If the moving party is unable to reasonably meet a
10 deadline despite acting diligently, the scheduling order may be modified. *Id.* If, however, the
11 moving party “‘was not diligent, the inquiry should end’ and the motion to modify should not be
12 granted.” *Zivkovic v. So. Cal. Edison Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002) (quoting *Johnson*,
13 975 F.2d at 609)

14 **Discussion**

15 The only basis advanced by the parties to warrant the requested four-month extension of
16 discovery and motion filing deadlines is that the pretrial conference and trial dates are sufficiently
17 distant to accommodate such a continuance without adjustment of those dates. But that does not
18 yield good cause or establish the parties’ diligence such that an extension may be granted.

19 An extension of case management dates in fact may be warranted. However, the Court
20 does not presently have before it sufficient information to find that the parties have undertaken
21 discovery diligently such that good cause supports the granting of any request for extension –
22 particularly given the Court’s early admonition to the parties: “The dates set in this [Scheduling]
23 Order are considered to be firm and will not be modified absent a showing of good cause even if
24 the request to modify is made by stipulation.” (Doc. 10 p. 7).

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Conclusion and Order

Accordingly, IT IS HEREBY ORDERED, the parties' stipulated request to extend discovery and pretrial motion filing deadlines (Doc. 14) is DENIED WITHOUT PREJUDICE to the parties' filing of a renewed stipulated request identifying good cause for any extension.

IT IS SO ORDERED.

Dated: February 5, 2024


UNITED STATES MAGISTRATE JUDGE