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4 UNITED STATES DISTRICT COURT  
5 NORTHERN DISTRICT OF CALIFORNIA  
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7 STARVONA HARRIS,  
8 Plaintiff,

9 v.

10 BEST BUY STORES, L.P.,  
11 Defendant.

Case No. 15-cv-00657-HSG

**ORDER GRANTING LEAVE TO  
REOPEN DISCOVERY CONCERNING  
PLAINTIFF'S PHONE RECORDS**

Re: Dkt. Nos. 81, 82

12 Discovery as to Plaintiff's individual claims ended on February 15, 2016. Dkt. No. 58.  
13 Defendant contends that it did not know that "Harris could obtain phone records and that Metro  
14 PCS was her carrier" before February 18, 2016, because Plaintiff provided untruthful or inaccurate  
15 statements in her earlier deposition and responses to discovery. Dkt. No. 81 at 2. Plaintiff  
16 responds that Harris objected to Defendant's specific requests for her phone records and that  
17 Harris has no cell phone records in her possession, custody or control. Dkt. No. 81 at 4-5.

18 Federal Rule of Civil Procedure 16 provides that "[a] schedule may be modified only for  
19 good cause and with the judge's consent." "Rule 16(b)'s 'good cause' standard primarily  
20 considers the diligence of the party seeking the amendment." *Johnson v. Mammoth Recreations,*  
21 *Inc.*, 975 F.2d 604, 609 (9th Cir.1992); see also Fed. R. Civ. P. 16 Advisory Committee's Notes  
22 (1983 amendment) (noting court may modify schedule "if it cannot reasonably be met despite the  
23 diligence of the party seeking the extension")

24 Although Plaintiff contends that Defendant mischaracterizes Plaintiff's deposition  
25 testimony, Plaintiff does not specifically refute Defendant's argument regarding when Plaintiff  
26 revealed Metro PCS was her carrier. Moreover, there is nothing in the record to suggest that  
27 Defendant has not been diligent or that Defendant could have reasonably acquired this information  
28 earlier had it been diligent. Having reviewed the February 18 deposition testimony, Dkt. No. 78 at


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12-15, the Court finds that good cause exists to reopen discovery as to the limited issue of Plaintiff's phone records and refers any motion to compel concerning the phone records to Judge Westmore. The Court extends the fact discovery deadline as to Plaintiff's individual claims as to this matter only to October 13, 2016; the Court will not extend the deadline absent a showing of good cause.

Additionally, in light of the Court's summary judgment order, Dkt. No. 102, the Court denies [82] as moot.

**IT IS SO ORDERED.**

Dated: 8/31/2016

  
HAYWOOD S. GILLIAM, JR.  
United States District Judge