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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BOARD OF TRUSTEES OF ASSOCIATED Civil No. 07cv1283 WQH (NLS) GENERAL CONTRACTORS OF AMERICA, SAN DIEGO CHAPTER, INC. ORDER DENYING JOINT MOTION RETIREMENT TRUST FUND. TO AMEND SCHEDULING ORDER REGULATING DISCOVERY AND OTHER PRE-TRIAL PROCEEDINGS Plaintiff, [Doc. No. 52] WAYNE A. VOTOLATO, an individual: DONNA JOHNSON, an individual; and PACIFIC BACKHOE WORKS, INC., a California corporation, Defendants.

Before the Court is the parties' Joint Motion to Amend Scheduling Order Regulating Discovery and Other Pre-Trial Proceedings, filed February 2, 2009. [Doc. No. 52.] For the reasons set forth below, the request to amend the scheduling order is **DENIED.**

On June 2, 2008, the Court convened an Early Neutral Evaluation Conference. [Doc. No. 44.] Because the case did not settle, on June 3, 2008, the Court entered an order setting a Case Management Conference ("CMC") pursuant to Federal Rule of Civil Procedure 16(b) and required the parties to lodge a joint discovery plan with the Court in advance of the July 18, 2008 CMC. [Doc. No. 45.] After consulting with the attorneys of record for the parties, the Court issued a "Scheduling Order Regulating Discovery and Other Pre-Trial Proceedings" ("Scheduling Order"). [Doc. No. 47.] The present motion to amend the scheduling order to continue all pertinent dates by approximately ninety (90) days was

filed just seven days before the discovery deadline in this case—February 9, 2009. Moreover, the only reason given for the requested continuance of previous court-ordered deadlines is "for the purpose of exploring settlement." [Doc. No. 52 at 1.] The Court observes a settlement conference is already scheduled on this Court's calendar for March 25, 2009 at 2:00 p.m.

The parties have not demonstrated diligence in complying with dates previously set by the Court, and have not demonstrated "good cause" for modifying the scheduling order, as required by Fed. R. Civ. P. 16(b). *Zivkovic v. S. California Edison Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002); *see, e.g., Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607-08 (9th Cir. 1992); *Worldtech Sys., Inc. v. Integrated Network Solutions, Inc.*, 2008 WL 4145440 at *1-2 (E.D. Cal. Sep. 3, 2008).

Therefore, the Joint Motion to Amend the Scheduling Order is **DENIED.**

IT IS SO ORDERED.

DATED: February 4, 2009

Hon. Nita L. Stormes U.S. Magistrate Judge United States District Court