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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

COMPASS BANK,	}	Civil No. 13-CV-0654-BAS (WVG)
Plaintiff,	}	
v.	}	ORDER SETTING BRIEFING
MORRIS CERULLO WORLD	}	SCHEDULE FOR DISCOVERY
EVANGELISM,	}	DISPUTE
Defendant.	}	[DOC. NO. 84]

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**I. BACKGROUND**

On December 15, 2014, Defendant Morris Cerullo World Evangelism (“Defendant”) filed an *Ex Parte* Motion to Continue Case Management Order Deadlines.<sup>1/</sup> (Doc. No. 84.) In its *Ex Parte* Motion, Defendant requests that the Court continue the January 20, 2015, discovery deadline, and the February 20, 2015, motion cutoff for a period of 60-90 days. Id. at 8. Defendant notes that the primary purpose for the extension request is to allow the parties to coordinate approximately 15 planned depositions. Id. at 2.

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<sup>1/</sup> Defendant represents that this extension request is unopposed, creating the impression that Plaintiff supported in full not only the request for the extension, but the length of the extension. However, Plaintiff, while not opposing the extension request, opposes the length of the extension.

1 On December 15, 2014, Mr. Patrick Kane, counsel for Plaintiff Compass Bank  
2 (“Plaintiff”), filed a Declaration in Support of Plaintiff’s Opposition to Defendant’s *Ex Parte*  
3 Motion. (Doc. No. 85.) In his Declaration, Plaintiff’s counsel argued that there is no need  
4 to extend the discovery deadline beyond 30 days, as the parties can complete all necessary  
5 depositions by February 20, 2015, if not sooner. *Id.* at 2.

## 6 **II. DISCUSSION**

### 7 **A. NO GOOD CAUSE TO EXTEND DISCOVERY OR MOTION CUTOFF BY** 8 **60-90 DAYS**

9 Rule 16(b)(4) “provides that a district court’s scheduling order may be modified upon  
10 a showing of ‘good cause,’ an inquiry which focuses on the reasonable diligence of the  
11 moving party.” *Noyes v. Kelly Servs.*, 488 F.3d 1163, 1174 n. 6 (9th Cir.2007); citing  
12 *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir.1992). In *Johnson*, the  
13 Ninth Circuit explained,

14 ... Rule 16(b)’s “good cause” standard primarily concerns the diligence of the  
15 party seeking the amendment. The district court may modify the pretrial  
16 schedule “if it cannot reasonably be met despite the diligence of the party  
17 seeking the extension.” Fed .R.Civ.P. 16 advisory committee’s notes (1983  
18 amendment) ... [T]he focus of the inquiry is upon the moving party’s reasons  
19 for seeking modification.... If that party was not diligent, the inquiry should  
20 end.

21 *Johnson*, 975 F.2d at 609.

22 In part, the “good cause” standard requires the parties to demonstrate that “noncom-  
23 pliance with a Rule 16 deadline occurred or will occur, notwithstanding her diligent efforts  
24 to comply, because of the development of matters which could not have been reasonably  
25 foreseen or anticipated at the time of the Rule 16 Scheduling conference ...” *Jackson v.*  
26 *Laureate, Inc.*, 186 F.R.D. 605, 608 (E.D.Cal. Jun. 16, 1999).

27 Here, the Court held a Case Management Conference (“CMC”) more than one year  
28 ago, on December 4, 2013. (Doc. No. 40.) However, the parties did not begin written  
discovery until April of 2014. On June 6, 2014, the Court stayed discovery for 53 days while  
the parties determined whether additional parties would be served in this litigation. The  
parties were engaged in discovery from December of 2013 through April of 2014, and again

1 from June of 2014 through the present. However, the parties did not begin discussing  
2 deposition schedules until October of 2014. While the Court appreciates that the parties had  
3 an interest in conducting discovery prior to deposing witnesses, scheduling the first  
4 deposition for December 16, 2014, with a January 20, 2015, discovery cutoff, shows a lack  
5 of diligence in conducting discovery.

6 Further, Defendant notes that one of its witnesses, Lynn Hodge, has been ordered by  
7 a doctor to avoid stressful interactions or situations over the next several weeks. (Doc. No.  
8 84 at 5.) However, in the next paragraph, Defendant states that it has an Annual World  
9 Conference from January 6-10, “which requires a significant amount of time and preparation  
10 by Mr. Hodge...” Id. The Court finds that, if Mr. Hodge is well enough to plan an Annual  
11 World Conference for the beginning of January, then he is well enough to sit for his  
12 deposition in December.

13 Moreover, Defendant asserts that the scheduling issues are exacerbated by the  
14 Christmas and New Year’s holidays, which effectively eliminates the last two weeks of  
15 December as viable deposition dates. (Doc. No. 84 at 6.) Defendant makes no attempt to  
16 explain why these two weeks are essentially eliminated from the schedule as available  
17 deposition dates, other than to say that it is the Christmas and New Year’s holidays.

18 The Court finds that Defendant has provided no justification as to why it needs an  
19 extension of the discovery cutoff and motion deadline for 60 days, rather than for 30 days.  
20 The Court typically sets a dispositive motion deadline for a date approximately 30 days after  
21 the discovery deadline. Here, because the Court will grant Defendant’s request in part and  
22 extend the discovery deadline by 30 days, it will also grant Defendant’s request to extend the  
23 dispositive motion deadline by a corresponding 30 days.

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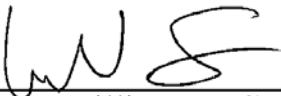
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1 **III. RULING**

2 The Court hereby GRANTS IN PART and DENIES IN PART Defendant's *Ex Parte*  
3 Motion. All discovery shall be completed by all parties on or before **February 20, 2015**.<sup>2/</sup>  
4 All motions, other than motions to amend or join parties, or motions in limine, shall be filed  
5 on or before **March 20, 2015**. No further extension requests will be granted.

6 IT IS SO ORDERED.

7 DATED: December 22, 2014

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10 Hon. William V. Gallo  
11 U.S. Magistrate Judge  
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25 <sup>2/</sup> "Completed" means that all discovery under Rules 30-36 of the Federal Rules of  
26 Civil Procedure must be initiated a sufficient period of time in advance of the cut-off date,  
27 so that it may be completed by the cut-off date, taking into account the times for services,  
28 notice, and response as set forth in the Federal Rules of Civil Procedure, **and any motions  
and the resolution of any discovery disputes**. All disputes concerning discovery shall be  
brought to the attention of the Magistrate Judge no later than thirty (30) days following the  
date upon which the event giving rise to the discovery dispute occurred. Counsel shall meet  
and confer pursuant to the requirements of Fed. R. Civ. P. 26 and Local Rule 26.1(a).