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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

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11 JEFFORY FRY,

12 Plaintiff,

13 v.

14 SAN DIEGO COUNTY, et al.

15 Defendants.

Case No.: 15cv2796-JM(BLM)

**ORDER GRANTING IN PART JOINT
MOTION TO EXTEND DATES
REGULATING DISCOVERY AND OTHER
PRETRIAL PROCEEDINGS**

[ECF No. 52]

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17 On September 5, 2017, the parties filed a "JOINT MOTION TO EXTEND DATES
18 REGULATING DISCOVERY AND OTHER PRETRIAL PROCEEDINGS." ECF No. 44. The parties
19 sought to extend the remaining pretrial deadlines by four months. Id. at 1. In support, the
20 parties stated that Plaintiff was recovering from back surgery and was unable to be deposed or
21 undergo an independent medical examination at the time. Id. at 2. Additionally, the parties
22 noted that there was a pending motion to dismiss in the matter [see ECF No. 43] set to be heard
23 on October 2, 2017. ECF No. 44 at 2. After finding good case, the Court granted the parties'
24 motion. ECF No. 45.

25 On November 21, 2017, the parties filed another "JOINT MOTION TO EXTEND DATES
26 REGULATING DISCOVERY AND OTHER PRETRIAL PROCEEDINGS." ECF No. 52. The parties
27 seek to continue the remaining case deadlines by another two to three months. Id. at 2. In
28 support, the parties state that they should have asked for a six month continuance in their first

1 joint motion to give Plaintiff sufficient time to recover and that “the holidays are now causing
2 unavoidable delays.” Id. In further support, the parties state that additional time is needed to
3 secure Plaintiff’s deposition, conduct an independent medical examination (“IME”), and to
4 conclude discovery. Id. at 3.

5 Once a Rule 16 scheduling order is issued, dates set forth therein may be modified only
6 “for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4); see also ECF No. 31 at
7 7 (stating that dates and times “will not be modified except for good cause shown”). The Rule
8 16 good cause standard focuses on the “reasonable diligence” of the moving party. Noyes v.
9 Kelly Servs., 488 F.3d 1163, 1174 n.6 (9th Cir. 2007); Coleman v. Quaker Oats Co., 232 F.3d
10 1271, 1294-95 (9th Cir. 2000) (stating Rule 16(b) scheduling order may be modified for “good
11 cause” based primarily on diligence of moving party). Essentially, “the focus of the inquiry is
12 upon the moving party’s reasons for seeking modification.” Johnson v. Mammoth Recreations,
13 Inc., 975 F.2d 604, 609 (9th Cir. 1992). However, a court also may consider the “existence or
14 degree of prejudice to the party opposing the modification” Id.

15 The parties have failed to establish good cause for continuing the remaining deadlines by
16 another two to three months. Plaintiff’s counsel states that Plaintiff’s health is “starting to
17 rebound” and that the parties “are now faced with the delays associated with the holidays”.
18 ECF No. 52-1, Declaration of Andre L. Verdun (“Verdun Decl.”) at 2. Therefore, it appears that
19 Plaintiff’s health is no longer the motivating factor for the requested continuance, and while the
20 Court is sympathetic to the challenges that come with the busy holiday season, that is not good
21 cause to extend case deadlines by another two to three months, especially in a case that has
22 been pending since December 11, 2015. See ECF No. 1. Additionally, the parties’ decision to
23 not propound any discovery at all because Plaintiff could not sit for a deposition or undergo an
24 IME does not demonstrate diligence. Verdun Decl. at 2-3. However, given the current status
25 of the case and time of year, the Court finds it appropriate to grant the parties a small
26 continuance of the deadlines. Accordingly, the parties’ motion is **GRANTED IN PART** as
27 follows:

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	<u>Current Deadline</u>	<u>New Deadline</u>	
1			
2	Expert Designation	January 4, 2018	January 26, 2018
3	Rebuttal Experts	January 18, 2018	February 16, 2018
4	Fact Discovery	January 18, 2018	February 16, 2018
5	Expert Reports	February 16, 2018	March 9, 2018
6	Rebuttal Expert Reports	March 16, 2018	April 6, 2018
7	Expert Discovery	April 13, 2018	May 8, 2018
8	Dispositive Motions	June 15, 2018	June 15, 2018
9	Mandatory Settlement Conference	September 7, 2018 at 9:30 a.m.	September 7, 2018 at 9:30 a.m.
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11	Confidential Settlement Statements	August 28, 2018	August 28, 2018
12	Memo of Contentions	September 21, 2018	September 21, 2018
13	Pre-trial Disclosures	September 21, 2018	September 21, 2018
14	Meet and Confer	September 28, 2018	September 28, 2018
15	Draft Pretrial Order	October 5, 2018	October 5, 2018
16	Proposed Final Pretrial Conference Order & Objections to Pretrial Disclosures	October 12, 2018	October 12, 2018
17			
18	Pretrial Conference	October 19, 2018 at 8:30 a.m.	October 19, 2018 at 8:30 a.m.
19			
20	Trial	November 26, 2018 at 10:00 a.m.	November 26, 2018 at 10:00 a.m.

IT IS SO ORDERED.

Dated: 11/27/2017


 Hon. Barbara L. Major
 United States Magistrate Judge