

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Magistrate Judge Kathleen M. Tafoya**

Civil Action No. 12-cv-00126-REB-KMT

REBECCA SHINE, a Colorado resident,

Plaintiff,

v.

WAL-MART STORES, INC.,

Defendant.

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**ORDER**

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This matter is before the court on “Wal-Mart’s Amended Unopposed Motion to Modify Scheduling Order” (Doc. No. 20, filed Oct. 29, 2012), as well as “Wal-Mart’s Unopposed Motion to Modify Scheduling Order” (Doc. No. 18, filed Oct. 18, 2012). Wal-Mart’s Amended Motion seeks to extend a number of the Scheduling Order deadlines based on scheduling complications that occurred with respect to two Rule 35 independent medical examinations of Plaintiff.

Federal Rule of Civil Procedure 16(b) provides that a scheduling order “may be modified only for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). This “good cause” standard requires the movant to show that despite diligent efforts, the movant could not meet the

scheduled deadline. *See Pumpco, Inc. v. Schenker Int'l, Inc.*, 204 F.R.D. 667, 668 (D. Colo. 2008).

The court first finds that, contrary to Wal-Mart's position, the need to reschedule the two IMEs of Plaintiff was caused by *both* parties' failure to consult and confer in a timely manner well prior to the IMEs. Instead, the parties waited until the last minute to discuss and conduct this necessary discovery. As such, this court declines to recommend that District Judge Robert E. Blackburn reschedule the trial dates and, therefore, the Trial Preparation Conference and Jury Trial remain set for March 29, 2013, and April 15, 2012, respectively, unless altered by District Judge Blackburn.

Nevertheless, even though the parties largely brought this situation upon themselves, the court will grant Defendant's Motion in part—on the condition that the parties will be required to operate on an expedited schedule in order to retain the trial settings before the District Court. Therefore, it is

ORDERED that "Wal-Mart's Amended Unopposed Motion to Modify Scheduling Order." (Doc. No. 20) is GRANTED in part. The deadline for rebuttal expert disclosures relating to the two IMEs only is extended to January 2, 2013. The discovery deadline is extended to January 23, 2013, for the sole purpose of conducting discovery relating to the IME experts. The dispositive motions deadline is extended to February 13, 2013. Responses to any dispositive

motions shall be filed no later than February 27, 2013, and replies in support of any dispositive motions shall be filed no later than March 6, 2013.

It is further

ORDERED that “Wal-Mart’s Unopposed Motion to Modify Scheduling Order” (Doc. No. 18) is DENIED as moot.

Dated this 30th day of October, 2012.

**BY THE COURT:**



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Kathleen M. Tafoya  
United States Magistrate Judge