

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

LEE MEMORIAL HEALTH SYSTEM,

Plaintiff,

v.

Case No: 2:15-cv-15-FtM-38CM

NATIONWIDE INSURANCE
COMPANY OF AMERICA,

Defendant.

ORDER

Before the Court are Plaintiff's Motion for Relief from Case Management and Scheduling Order and for Extension of Case Management and Scheduling Deadlines and to Withdraw this Case from Mediation (Doc. 36) and Nationwide Insurance Company of America's Motion for Relief from Case Management and Scheduling Order (Doc. 37). Plaintiff responded in opposition to Defendant's motion for relief (Doc. 38). For the reasons set for below, the motions are granted in part and denied in part.

The parties seek an extension of the deadlines in the Case Management and Scheduling Order (Doc. 23, "CMSO"). The parties are in agreement with their request to extend all of the deadlines in the CMSO with the exception of Defendant's expert disclosures. Doc. 38 at 1. Plaintiff opposes Defendant's request to extend Defendant's expert disclosure deadline. Docs. 36, 38. The parties request that the Court extend the deadline for completing discovery until 120 days after the determination of Plaintiff's Motion to Compel (Doc. 34). Docs. 36, 37. The discovery

deadline currently is set for January 18, 2016. Doc. 23. The parties also request that the Court extend the remaining deadlines by 120 days. Docs. 36 at 7; 37 at 4.

Defendant also requests an extension of 60-90 days to allow its proposed expert enough time to review the documents in the underlying matter and form an opinion. Doc. 37 at 4. Plaintiff opposes this request because Plaintiff disclosed its experts by its deadline of September 14, 2015. Doc. 36 at 7. Plaintiff also contends that requiring Defendant to disclose its experts by the current deadline will expedite this case. *Id.* Additionally, Plaintiff states that Defendant has known since the scheduling order was entered that the expert reports were due on October 16, 2015. Doc. 38.

The Court finds good cause to grant the requested extension including Defendant's expert disclosures. While the Court recognizes Plaintiff's opposition, the Court does not find that Plaintiff would be prejudiced by allowing Defendant additional time to disclose its experts. To the extent there is any prejudice to Plaintiff, the Court also will extent Plaintiff's disclosure deadline to help alleviate that prejudice. The Court, however, is not inclined to extend the deadlines by 120 days from the date of an Order on the motion to compel. The Court will extend the deadlines in the CMSO by 90 days from the current deadlines.

The parties also request to be excused from mediation. Doc. 36 at 5. Plaintiff contends that mediation will not be successful because the constitutionality of the statute under which Plaintiff recorded its hospital claim is pending before the Second District Court of Appeals. Doc. 36 at 5. Until that issue is decided, it is Plaintiff's

position that mediation would not be fruitful. *Id.* Local Rule 9.03 allows the Court to withdraw a civil action from mediation if it determines that the case is not suitable for mediation. M.D. Fla. 9.03(c). In this case, however, the Court is not inclined to excuse the parties from mediation. The Court will extend the deadline, along with the remaining deadlines in the CMSO but the parties still are required to attend mediation.

ACCORDINGLY, it is hereby

ORDERED:

1. Plaintiff's Motion for Relief from Case Management and Scheduling Order and for Extension of Case Management and Scheduling Deadlines and to Withdraw this Case from Mediation (Doc. 36) is **GRANTED in part and DENIED in part.**

2. Nationwide Insurance Company of America's Motion for Relief from Case Management and Scheduling Order (Doc. 37) is **GRANTED in part and DENIED in part.**

3. The deadlines in the Case Management and Scheduling Order (Doc. 23), including the expert disclosures deadlines will be extended by 90 days.

4. The Clerk is directed to enter an Amended Case Management and Scheduling Order.

5. The parties request to be excused from mediation is **DENIED.**

DONE and **ORDERED** in Fort Myers, Florida on this 5th day of November,
2015.


CAROL MIRANDO
United States Magistrate Judge

Copies:
Counsel of record