

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

LAWRENCE RUSSELL and
PATRICIA RUSSELL,

Plaintiffs,

v.

Case No. 2:20-cv-937-SPC-NPM

FEDERAL INSURANCE COMPANY

Defendant.

ORDER

Before the Court is the parties' joint motion to amend the case management and scheduling order (Doc. 23). The parties state they are engaged in settlement discussions to mutually resolve the matter; and thus, good cause exists to extend the discovery cutoff and the dispositive and *Daubert* motion deadlines by sixty days. (Doc. 23, ¶¶ 2, 6).

The parties fail to cite the correct Federal Rule of Civil Procedure when arguing for the requested relief. When a deadline appears in a scheduling order and a motion for more time is filed, "Rule 16 is the proper guide for determining whether a party's delay may be excused." *Destra v. Demings*, 725 F. App'x 855, 859 (11th Cir. 2018). Under Rule 16(b)(4), "a schedule may be modified only for good cause and with the judge's consent." Under this standard, the party requesting the

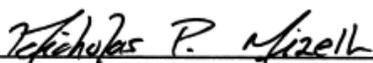
extension demonstrates “good cause” only if, despite its diligence, the party cannot meet the deadline. *See* FED. R. CIV. P. 16, 1983 Advisory Committee Notes; *S. Grouts & Mortars, Inc., v. 3M Co.*, 575 F.3d 1235, 1241 (11th Cir. 2009) (citing *Sosa v. Airprint Sys., Inc.*, 133 F.3d 1417, 1418 (11th Cir. 1998)).

To inform the Court’s preparation of an appropriate case management and scheduling order for this matter, the parties conferred and jointly proposed a series of deadlines (Doc. 12). Further, the Court conferred with the parties during a Rule 16(b)(1)(B) conference (Doc. 13) to arrive at a schedule that would not need to be revisited. Indeed, the CMSO expressly warns parties that motions to extend court-ordered deadlines are disfavored. (Doc. 15, p. 2).

While it appears a close call whether the Rule 16 standard has been met, the Court will nevertheless grant the joint motion because the parties suggest that the extension of time will facilitate potential resolution. Notably, moving the requested deadlines back two months will push the trial term back by an equal amount of time.

The parties’ joint motion (Doc. 23) is **GRANTED**. An amended CMSO will be entered separately.

ORDERED in Fort Myers, Florida, on January 11, 2022.



NICHOLAS P. MIZELL
UNITED STATES MAGISTRATE JUDGE