

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

BICYCLE PEDDLER, LLC,

Plaintiff,

v.

Case No. 6:13-cv-594-ORL-37TBS

DOE 39,

Defendant.

ORDER

Pending before the Court is Plaintiff's Motion for Extension of Time to Serve Defendant (Doc. 12). Plaintiff seeks an enlargement of time to serve Defendant while the parties engage in settlement discussions (Id.).

Federal Rule of Civil Procedure 4(m) permits an extension of time for service of process if the Plaintiff shows good cause. Here, the delay in service of process does not result from any outside factor, beyond Plaintiff's control. Instead, Plaintiff has made a decision not to serve Defendant while the parties negotiate. Plaintiff does not cite any legal authority holding that this circumstance constitutes good cause. The Court has read the Advisory Committee Notes to Rule 4(m) and does not find anything suggesting Plaintiff has stated a valid ground to enlarge the time for service of process. Still, the Court has discretion, even in the absence of good cause, to extend the time. Horenkamp v. Van Winkle and Co., Inc., 402 F.3d 1129, 1132 (11th Cir. 2005) (citing Henderson v. United States, 517 U.S. 654, 116 S.Ct. 1638, 134 L.Ed.2d 880 (1996)).

Experience teaches that settlement negotiations may be upset by actions and events that are both consequential and inconsequential, everything depends upon the motives and what is in the minds of the actors. The Court has no reason to believe the parties are not negotiating in good faith or that Plaintiff has filed this motion for any improper purpose. Accordingly, Plaintiff's motion is GRANTED. Plaintiff has through August 30, 2013 within to serve Defendant.

IT IS SO ORDERED.

DONE AND ORDERED in Orlando, Florida, on August 9, 2013.



THOMAS B. SMITH  
United States Magistrate Judge

Copies to all Counsel