

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 07-21403-CIV-COHN

ANTONIO HERNANDEZ, individually,  
and on behalf of all others similarly situated,

Magistrate Judge Seltzer

Plaintiff,

vs.

IGE U.S. LLC,

Defendants.

/

**ORDER GRANTING IN PART JOINT MOTION TO AMEND SCHEDULING ORDER**

\_\_\_\_\_ THIS CAUSE is before the Court upon the parties' Joint Motion to Amend Scheduling Order [DE 44] and Joint Motion for Status Conference [DE 45]. The Court has carefully considered the motion and is otherwise fully advised in the premises.

The parties seek a six-month extension of all pretrial deadlines and the trial setting, asserting that this proposed class action involves voluminous discovery that cannot possibly be completed under the current scheduling order. The Court makes the following observations before ruling on the motion.

This case has been pending for nearly one year, having been filed on June 1, 2007. Plaintiff apparently did nothing for nearly three months, until an amended complaint was filed on August 17, 2007 [DE 5] and the single domestic defendant, IGE U.S. LLC was served on September 4, 2007 [DE 10]. On September 26, 2007, this Court reset the trial for August of 2008 [DE 14], a sufficient amount of time even for a class action. The parties sought and received a delay in setting the scheduling conference before Magistrate Judge Seltzer [DE 17/19]. The parties briefly engaged in

motion practice, but the motion to stay or dismiss filed by IGE U.S. was withdrawn on December 10, 2007 [DE 36]. The foreign defendant was dropped by Plaintiff on December 21, 2007 [DE 39/40], and IGE U.S. filed an Answer on January 3, 2008 [DE 41].

Apparently, though the parties should have been engaged in discovery at this point, not much was accomplished during the next three months. On March 31, 2008, IGE U.S. changed counsel. It is this change of counsel that is one of the arguments the parties rely upon in seeking a significant continuance in this case.

While the Court will grant in part the extended continuance as requested so as to not prejudice either party, counsel must be aware that this case did not recently begin, and by the time of the new trial date in 2009, this action will likely be one of this Court's oldest cases. Thus, additional continuances are unlikely.<sup>1</sup>

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. The Joint Motion to Amend Scheduling Order [DE 44] is hereby **GRANTED in part**;
2. The Joint Motion for Status Conference [DE 45] is hereby **DENIED as moot**;
3. The trial in this case shall be continued until the two week period commencing December 8, 2008, with the Calendar Call reset for Thursday, December 4, 2008 at **9:00am**;

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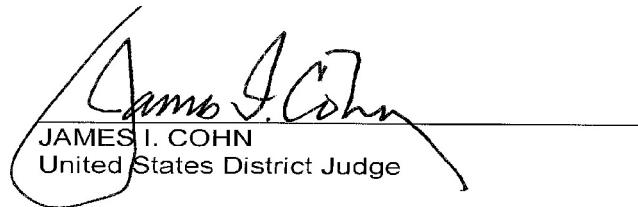
<sup>1</sup> The Court also notes that based upon the minimal record in the case to date, and without of course prejudging any issue, it appears that liability and standing issues seem the most challenging issues for Plaintiffs, rather than the parties' apparent focus on class certification issues.

4. The following pretrial deadlines shall now apply:

|  |   |
|--|---|
| Joinder of parties and<br>Amendment of Pleadings   | deadline passed on February 29, 2008 <sup>2</sup> |
| Motion for Class certification   | May 19, 2008                                      |
| Fact Discovery cutoff  | August 12, 2008                                   |
| Expert Reports Exchanged   | August 26, 2008                                   |
| Rebuttal Expert Reports (if any)   | September 17, 2008                                |
| Expert Discovery cutoff  | October 1, 2008                                   |
| Dispositive pretrial motions<br>and Motions to Exclude or<br>Limit Expert Testimony  | October 8, 2008                                   |
| Mediation Report Deadline  | October 17, 2008                                  |
| Motions in limine  | November 14, 2008                                 |
| Joint Pretrial Stipulation, Proposed<br>Jury Instructions, and Deposition<br>Designations for Unavailable<br>Trial Witnesses | November 24, 2008                                 |
| Proposed Voir Dire questions and<br>Objections and Counter-Designations to<br>Deposition Designations                        | December 2, 2008                                  |

**DONE AND ORDERED** in Chambers at Fort Lauderdale, Broward County,

Florida, this 18th day of April, 2008.



JAMES I. COHN  
United States District Judge

<sup>2</sup> The Court typically interprets this deadline as including a motion for class certification. Given that the parties apparently were not aware of this interpretation, the Court will allow plaintiff an extension of 30 additional days to file such a motion.

copies to:

Magistrate Judge Barry Seltzer  
C. Richard Newsome, Esq.  
Donald E. Haviland, Jr., Esq.  
Samuel Heywood, Esq./James M. Miller, Esq.