

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

FREDDIE BANKS, JR.

CIVIL ACTION

VERSUS

NO. 16-15645

LOUISIANA MARINE OPERATORS,
LLC

SECTION "R" (4)

ORDER AND REASONS

Before the Court is plaintiff's motion to continue trial.¹ For the following reasons, the Court grants the motion.

I. BACKGROUND

This case arises out of an accident on Defendant Louisiana Marine Operators, LLC's vessel, the M/V MAXX B.² Plaintiff Freddie Banks, Jr. alleges that he was employed by defendant aboard the M/V MAXX B when he suffered injuries after falling down the stairs.³ On October 18, 2016, plaintiff filed a seaman's complaint for damages against defendant.⁴ Plaintiff

¹ R. Doc. 14.

² R. Doc. 1 at 2.

³ *Id.*

⁴ *Id.* at 1-6.

alleges that defendant failed to provide to provide a reasonably safe place to work and engaged in other acts of negligence.⁵ Plaintiff seeks maintenance and cure for his injuries, damages, attorneys' fees, costs, punitive damages, and other relief.⁶

The Court entered a scheduling order in this case that established a discovery deadline of July 11, 2017, and a trial date of August 21, 2017.⁷ Plaintiff now moves to continue trial because his medical condition is uncertain.⁸ Plaintiff states that he recently sought treatment from an orthopaedic surgeon, who advised plaintiff that he may need surgery on his shoulder.⁹

II. DISCUSSION

Federal Rule of Civil Procedure 16(b) provides that “[a] schedule may be modified only for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). The “good cause standard requires the party seeking relief to show that the deadlines cannot reasonably be met despite the diligence of the party needing the extension.” *S & W Enterprises, L.L.C. v. SouthTrust Bank*

⁵ *Id.* at 3.

⁶ *Id.* at 5-6.

⁷ R. Doc. 8 at 3.

⁸ R. Doc. 14.

⁹ R. Doc. 14-2 at 2.

of Ala., NA, 315 F.3d 533, 535 (5th Cir. 2003) (internal citations omitted). Whether to grant or deny a continuance is within the sound discretion of the trial court. *United States v. Alix*, 86 F.3d 429, 434 (5th Cir. 1996). In deciding whether to grant a continuance, the Court’s “judgment range is exceedingly wide,” for it “must consider not only the facts of the particular case but also all of the demands on counsel’s time and the court’s.” *Streber v. Hunter*, 221 F.3d 701, 736 (5th Cir. 2000) (internal citations omitted).

Trial in this matter is currently scheduled for August 21, 2017.¹⁰ Neither party has previously requested a continuance in this matter. Plaintiff argues that a continuance is necessary because it is not possible to enter into meaningful settlement negotiations given plaintiff’s uncertain medical condition.¹¹ Defendant opposes a continuance, but is willing to withdraw its opposition if the expert deadline is not reset.¹² Plaintiff states that he does not plan to call a liability expert and does not request an extension of the expert deadline.¹³

The Court finds that plaintiff’s uncertain medical condition constitutes good cause to justify the continuance of the trial. *See Jones v. Phil Guilbeau*

¹⁰ R. Doc. 8 at 3.

¹¹ R. Doc. 14-2 at 2.

¹² R. Doc. 16 at 2.

¹³ R. Doc. 19.

Offshore, Inc., No. 13-5078, 2014 WL 4186784, at *1 (E.D. La. Aug. 22, 2014); *Augman v. Seacor Marine, L.L.C.*, No. 07-1508, 2008 WL 8694786, at *3 (E.D. La. June 23, 2008). Accordingly, the Court will grant plaintiff's motion. The Court will not extend the deadline for expert reports.

III. CONCLUSION

For the foregoing reasons, the Court GRANTS plaintiff's motion. IT IS ORDERED that the pretrial conference and the trial are hereby continued. A preliminary conference will be held by telephone on Thursday, August 17, 2017, at 11:00 a.m. for the purpose of scheduling a pre-trial conference and trial on the merits. The Court will initiate the telephone conference call and will be represented at the conference by its case manager.

IT IS FURTHER ORDERED that discovery is closed, except as to the issue of plaintiff's medical condition and damages. The deadline for expert reports has passed and will not be reset.

New Orleans, Louisiana, this 13th day of July, 2017.



SARAH S. VANCE
UNITED STATES DISTRICT JUDGE