

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

DEBORAH THOMAS

CIVIL ACTION

VERSUS

NO. 14-463-JJB-RLB

BRENDA GAYLE LEWIS, ET AL.

ORDER

Before the court is Plaintiff's Consent Motion to Extend Expert Report Cutoffs (R. Doc. 46).

On July 24, 2014, Plaintiff initiated this lawsuit alleging that certain architectural barriers at a shopping center owned or leased by the Defendants hinder her access in violation of Title III of the Americans with Disabilities Act. (R. Doc. 1).

On April 28, 2015, the court entered a Scheduling Order (R. Doc. 39) based upon deadlines requested by the parties in a Joint Status Report (R. Doc. 38). As requested by the parties, the court set the deadline for Plaintiff to submit expert reports on September 18, 2015; for Defendants to submit expert reports on October 16, 2015; for expert discovery to be completed by November 20, 2015; and for dispositive motions to be filed by December 14, 2015. Trial is set begin on June 27, 2016.

On July 20, 2015, Plaintiff filed the instant consent motion seeking a 30-day extension of her deadline to provide expert reports to October 18, 2015, and a corresponding extension of the deadline for Defendants to provide expert reports to November 16, 2015. (R. Doc. 46).

Rule 16(b)(4) of the Federal Rules of Civil Procedure allows for the modification of a scheduling order deadline upon a showing of good cause and with the judge's consent. The Fifth Circuit has explained that a party is required "to show that the deadlines cannot reasonably be met despite the diligence of the party needing the extension." *Marathon Fin. Ins. Inc., RRG v.*

Ford Motor Co., 591 F.3d 458, 470 (5th Cir. 2009) (quoting *S&W Enters., LLC v. Southtrust Bank of Ala., NA*, 315 F.3d 533, 535 (5th Cir. 2003)). The Scheduling Order informed the parties that “[j]oint, agreed or unopposed motions to extend scheduling order deadlines will not be granted automatically” and that “[e]xtensions of deadlines governing discovery must be supported with information describing the discovery already completed, what necessary discovery remains, the parties’ efforts to complete the remaining discovery by the deadline, and any additional information showing that the parties have diligently pursued their discovery.” (R. Doc. 39 at 2-3).

In support of the requested extensions, Plaintiff represents that “[t]he parties have been continuously discussing settlement and defendants have taken steps in an attempt to remediate some of the barriers which form the basis of this action,” but “the parties have not yet reached a final agreement on settlement terms.” (R. Doc. 46 at 1). Furthermore, Plaintiff represents that although the parties have been diligent in scheduling a Rule 34 inspection of the premises, a conflict requires them to reschedule the inspection, now set for September 10, 2015, to a later day in the month. (R. Doc. 46 at 1-2).¹

Pursuant to Rule 16(b)(4), the court finds good cause for extending the deadlines for exchanging expert reports. Based on Plaintiff’s representations, the parties have been diligent in scheduling and completing appropriate fact discovery prior to the expert report deadlines. To accommodate the requested extensions of the expert report deadlines, the court will also extend the deadline to complete expert discovery for a short period of time. The extensions requested, however, will not interfere with the dispositive motion deadline set for December 14, 2015, which the parties have not requested to be moved.

¹ The parties are reminded that the deadline to complete non-expert discovery is set for September 21, 2015. (R. Doc. 39 at 1). The parties have not requested an extension of that deadline through the instant motion.

IT IS ORDERED that the Consent Motion to Extend Expert Report Cutoffs (R. Doc. 46) is **GRANTED**, and the court's Scheduling Order (R. Doc. 39) is modified as follows:

- (1) Plaintiff must submit expert reports to Defendants on or before **October 18, 2015**;
- (2) Defendants must submit expert reports to Plaintiff on or before **November 16, 2015**; and
- (3) Discovery from experts must be completed by **December 7, 2015**.

All other deadlines remain as previously ordered.

Signed in Baton Rouge, Louisiana, on August 25, 2015.



RICHARD L. BOURGEOIS, JR.
UNITED STATES MAGISTRATE JUDGE