

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BARTECH SYSTEMS INTERNATIONAL, INC.,)) Plaintiff,)) vs.)) MOBILE SIMPLE SOLUTIONS, INC., et al.,)) Defendants.)	Case No. 2:15-cv-02422-MMD-NJK ORDER DENYING STIPULATION TO REOPEN DISCOVERY (Docket No. 362)
--	--

Pending before the Court is a stipulation between Plaintiff and Defendant GEM SA to reopen discovery. Docket No. 362.¹ The stipulation is signed solely by these parties, and not by the remaining defendant whose case is not currently stayed, Defendant Tessier.

“The use of orders establishing a firm discovery cutoff date is commonplace, and has impacts generally helpful to the orderly progress of litigation, so that the enforcement of such an order should come as a surprise to no one.” *Cornwell v. Electra Cent. Credit Union*, 439 F.3d 1018, 1027 (9th Cir. 2006). To prevail on a request to amend a scheduling order under Rule 16(b) of the Federal Rules of Civil Procedure, a movant must establish “good cause” for doing so. *See Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 608-09 (9th Cir. 1992); *see also* Local Rule 26-4. The good cause inquiry focuses primarily on the movant’s diligence. *See Coleman v. Quaker Oats Co.*, 232 F.3d 1271,

¹While the stipulation states that it requests extension of remaining discovery deadlines, most of the deadlines for which extensions are requested have already expired. See Docket No. 362 at 1, 4.

1 1294-95 (9th Cir. 2000). “[C]arelessness is not compatible with a finding of diligence and offers no
2 reason for a grant of relief.” *Johnson*, 975 F.2d at 609. While prejudice to the opposing party may also
3 be considered, where the movant “fail[s] to show diligence, ‘the inquiry should end.’” *Coleman*, 232
4 F.3d at 1295 (quoting *Johnson*, 975 F.2d at 609).

5 Requests to extend deadlines filed after the deadlines’ expiration also require a further showing
6 of excusable neglect. *See* Local Rule 26-4; *see also Nunez v. Harper*, 2014 U.S. Dist. Lexis 84287, *6
7 (D. Nev. June 20, 2014). When a threshold showing of good cause is not made, however, the Court need
8 not reach the issue of excusable neglect. *See, e.g., Nunez*, 2014 U.S. Dist. Lexis 84287, at *7 n.3.
9 District courts have “wide latitude” in determining whether to reopen discovery. *Cornwell*, 439 F.3d
10 at 1027.

11 In this instance, the parties seek to extend six deadlines, four of which expired prior to the filing
12 of the stipulation. Docket No. 362 at 4. The sole reason stated for the request for extension is that “one
13 of the necessary parties to this action, GEM, only recently became a party to this action in May 2017,”
14 five months prior to the filing of the stipulation. *Id.* at 3. The parties state, without elaboration, that they
15 “have not had the opportunity to engage in discovery beyond initial disclosures and initial written
16 discovery requests.” *Id.*

17 The parties have failed to show diligence and have failed to demonstrate that good cause exists
18 for their request to extend the requested deadlines. Accordingly, the Court does not reach the question
19 of excusable neglect. Additionally, the parties failed to include Defendant Tessier’s position on the
20 requested extensions. The parties’ stipulation to reopen discovery, Docket No. 362, is therefore
21 **DENIED** without prejudice.

22 IT IS SO ORDERED.

23 DATED: October 17, 2017.

24 
25 _____
26 NANCY J. KOPPE
27 United States Magistrate Judge
28