

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

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Case No. 2:16-cv-00546-GMN-VCF

**ORDER**

THIRD-PARTY DEFENDANT'S MOTION TO EXTEND  
DISCOVERY DEADLINES (ECF No. 46)

DEYSSI JANNETH PRADO-GUAJARDO,

Plaintiff,

vs.

MARTIN GUZMAN PEREZ and EI RAYO,

Defendants.

MARTIN GUZMAN PEREZ,

Third-Party Plaintiff,

vs.

SHAYNA DIAZ,

Third-Party Defendant.

Before the Court is Third-Party Defendant Shayna Diaz's Motion to Extend Discovery Deadlines (ECF No. 46). Defendant/Third-Party Plaintiff Martin Guzman Perez filed a Limited Joinder to Third-Party Defendant's Motion to Extend Discovery Deadlines (ECF No. 47). For the reasons stated below, Diaz's Motion is denied.

**I. LEGAL STANDARD**

Federal Rule of Civil Procedure 16(b)(4) governs the modification of scheduling orders. In pertinent part, it provides that "[a] schedule may be modified only for good cause and with the judge's consent." See Fed. R. Civ. P. 16(b)(4). In the context of Rule 16, good cause is measured by diligence. See *Coleman v. Quaker Oats Co.*, 232 F.3d 1271, 1294-95 (9th Cir. 2000) (citing *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607-09 (9th Cir. 1992)). The rule permits modification of a scheduling

1 order, but only if the existing deadlines cannot be met despite the diligence of the party seeking the  
2 extension. See Coleman, 232 F.3d at 1295. Where the movant “fail[s] to show diligence, the inquiry  
3 should end.” Id. (citation and quotation marks omitted).

4 Local Rule 26-4 supplements Federal Rule 16. It states:

5 A motion or stipulation to extend any date set by the discovery plan,  
6 scheduling order, or other order must, in addition to satisfying the  
7 requirements of LR IA 6-1, be supported by a showing of good cause for  
8 the extension ... A request made after the expiration of the subject deadline  
9 will not be granted unless the movant also demonstrates that the failure to  
10 act was the result of excusable neglect. A motion or stipulation to extend a  
11 discovery deadline ... must include:

- 12 (a) A statement specifying the discovery completed;
- 13 (b) A specific description of the discovery that remains to be  
14 completed;
- 15 (c) The reasons why the deadline was not satisfied or the remaining  
16 discovery was not completed within the time limits set by the  
17 discovery plan; and
- 18 (d) A proposed schedule for completing all remaining discovery

19 See Local Rule 26-4.<sup>1</sup>

20 Excusable neglect approximates negligence. See Lemoge v. United States, 587 F.3d 1188, 1195  
21 (9th Cir. 2009). Courts consider four factors when determining whether neglect is excusable: (1) the

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22 <sup>1</sup> LR IA 6-1(a) and (b) state:

23 (a) A motion or stipulation to extend time must state the reasons for the extension  
24 requested and must inform the court of all previous extensions of the subject deadline  
25 the court granted ... A request made after the expiration of the specified period will  
not be granted unless the movant or attorney demonstrates that the failure to file the  
motion before the deadline expired was the result of excusable neglect. Immediately  
below the title of the motion or stipulation there also must be a statement indicating  
whether it is the first, second, third, etc., requested extension, i.e.: STIPULATION TO  
EXTEND TIME TO FILE MOTIONS (First Request).

(b) The court may set aside any extension obtained in contravention of this rule.

1 danger of prejudice to the opposing party; (2) the length of the delay and its potential impact on the  
2 proceedings; (3) the reason for the delay; and (4) whether the movant acted in good faith. See *Bateman*  
3 *v. United States Postal Serv.*, 231 F.3d 1220, 1223–24 (9th Cir. 2000) (citing *Pioneer Inv. Servs. Co. v.*  
4 *Brunswick Assoc. Ltd. P’ship*, 507 U.S. 380, 395 (1993)). This determination is equitable, *Pioneer*, 507  
5 U.S. at 395, and left to this Court’s discretion. See *Pincay v. Andrews*, 389 F.3d 853, 860 (9th Cir. 2004).

6 Scheduling orders are critical to the Court’s management of its docket. The Court is charged with  
7 securing “the just, speedy, and inexpensive determination of every action and proceeding.” See Fed. R.  
8 Civ. P. 1. Delay frustrates this command. Accordingly, the Ninth Circuit has emphasized that a case  
9 management order “is not a frivolous piece of paper, idly entered, which can be cavalierly disregarded by  
10 counsel without peril.” See *Mammoth Recreations, Inc.*, 975 F.2d at 610 (internal quotations and citations  
11 omitted).

## 12 II. DISCUSSION

13 Diaz’s Motion to Extend Discovery Deadlines is denied without prejudice. Diaz’s motion neither  
14 “inform[s] the court of all previous extensions of the subject deadline the court granted,” nor does Diaz’s  
15 motion include “[i]mmediately below the title ... a statement indicating whether it is the first, second,  
16 third, etc., requested extension.” See LR IA 6-1(a); see also LR IA 6-1(b) (“The court may set aside any  
17 extension obtained in contravention of this rule.”); LR IA 10-1(d) (“The court may strike any document  
18 that does not conform to an applicable provision of these rules ....”). Because Diaz’s Motion fails to  
19 comply with the local rules, the Court declines to consider the substance of Diaz’s motion at this time.  
20 Diaz’s motion is denied, but may refile her motion correcting the deficiencies identified above.

21  
22 ACCORDINGLY,  
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1 IT IS ORDERED that Third-Party Defendant Shayna Diaz's Motion to Extend Discovery  
2 Deadlines (ECF No. 46) is DENIED WITHOUT PREJUDICE. Diaz may refile the motion, correcting  
3 the deficiencies identified in this order, on or before July 25, 2017.

4 IT IS SO ORDERED.

5 DATED this 18th day of July, 2017.

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10 CAM FERENBACH  
11 UNITED STATES MAGISTRATE JUDGE  
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