

UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

HOLLIS H. MALIN, JR., and)	
LINDA D. MALIN,)	
)	
Plaintiffs,)	
)	No. 3:11-CV-554
)	(VARLAN/GUYTON)
V.)	
)	
J.P. MORGAN CHASE BANK, N.A.,)	
<i>As successor in interest to</i>)	
CHASE HOME MORTGAGE,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and the order of the District Judge [Doc. 40] referring Plaintiffs’ Motion to Modify Scheduling Order [Doc. 28] and Plaintiffs’ Motion to File Additional Affidavit in Opposition to Defendant’s Motion for Summary Judgment [Doc. 32] to the undersigned for disposition.

In the Motion to Modify Scheduling Order [Doc. 28], Plaintiffs move the Court to extend the deadline for disclosing expert testimony and the time for completing discovery contained in the Scheduling Order [Doc. 14]. In the Motion to File Additional Affidavit in Opposition to Defendant’s Motion for Summary Judgment [Doc. 32], the Plaintiffs move the Court to allow Plaintiffs to supplement their response to Defendant’s Motion for Summary Judgment in order to file a recently-obtained affidavit of an expert witness.

The Defendant has responded in opposition to both of Plaintiffs’ motions. [Docs. 35, 42]. Essentially, Defendant argues that these motions are part of a persistent pattern of delay by the Plaintiffs. Defendant maintains that Plaintiffs have failed to show good cause for the requested modifications to the Scheduling Order.

Plaintiffs filed a final reply in support of their position on January 28, 2013, [Doc. 45], and the Court finds that these motions are now ripe for disposition.

Rule 16 of the Federal Rules of Civil Procedure states that a Scheduling Order will not be modified absent a showing of good cause. See Fed. R. Civ. P. 16(b)(4).

This case is set to proceed to trial on April 22, 2013. The Scheduling Order directs that the Plaintiffs disclose any expert testimony at least one-hundred and fifty days prior to trial. This deadline expired on or about November 22, 2012. The Scheduling Order directs that all discovery be completed ninety days prior to trial. This deadline expired on or about January 22, 2013. The Defendant filed a Motion for Summary Judgment on November 27, 2012, and the Plaintiffs' response to the Motion for Summary Judgment was filed on December 18, 2012.

The Court has considered the parties' filings and the Court finds that the Plaintiffs have demonstrated good cause for allowing a short extension of the expert disclosure deadline, the discovery deadline, and the response time for the Motion for Summary Judgment. Accordingly, Plaintiffs' Motion to Modify Scheduling Order [**Doc. 28**] and Plaintiffs' Motion to File Additional Affidavit in Opposition to Defendant's Motion for Summary Judgment [**Doc. 32**] are **GRANTED**, as follows:

1. Plaintiffs shall have up to and including **February 11, 2013**, to modify their expert disclosures, and Defendant shall have up to and including **February 25, 2013**, to modify its expert disclosures in light of any additional disclosures made by Plaintiffs.
2. The parties shall have up to and including **March 8, 2013**, to complete discovery including depositions. The parties are reminded, however, that any expert depositions should be scheduled as soon as possible so that they can be completed by this deadline.

The Court will not extend the deadline for completing discovery any further absent a showing of *extraordinary good cause*.

3. The Plaintiffs will have up to and including **March 15, 2013**, in which to file any final supplemental materials in response to the Motion for Summary Judgment, and the Defendant will have up to and including **April 1, 2013**, in which to file its final reply.

All other dates and deadlines contained in the Scheduling Order remain unchanged. The parties shall appear before Chief District Judge Thomas A. Varlan at **10:30 a.m. on April 10, 2013**, for their final pretrial conference, and this case will proceed to trial at **9:00 a.m. on April 22, 2013**.

IT IS SO ORDERED.

ENTER:

/s H. Bruce Guyton
United States Magistrate Judge