

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
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ALISHA R SILBAUGH,

Plaintiff,

v.

PETE BUTTIGIEG, Secretary of the
Department of Transportation,

Defendant.

Case No. C17-1759RSM

ORDER DENYING MOTION TO
CONTINUE TRIAL DATE

This matter comes before the Court on Plaintiff Alisha Silbaugh’s Motion to Amend Trial Date. Dkt. #60. Pursuant to a stipulation filed by the parties, trial was set for September 20, 2021. Dkt. #53. The same month that stipulation was filed, Plaintiff’s counsel at the time withdrew. Dkt. #56. Plaintiff obtained new counsel entering an appearance on April 4, 2021. Dkt. #58. The instant Motion was filed a few weeks after that. Plaintiff’s new counsel states he is counsel of record in a case set for trial on Tuesday, September 21, 2021, *Caldwell v. Spencer (Navy)*, C.A., Case No. 3:19-cv-06095-BHS, and informs the Court that he “is not able to try two cases simultaneously.” Dkt. #60 at 1.

The Government opposes this Motion, arguing that “plaintiff’s decision five months before the trial date to hire an attorney who is unable to comply with the case schedule is not

1 good cause.” Dkt. #61 at 1. The Government points out, “Plaintiff’s motion does not state that
2 she and her new counsel have a preexisting attorney/client relationship or argue that her new
3 counsel is the only one who can represent her in this matter.” *Id.* at 2. The Government points
4 to its own scheduling issues as a source of prejudice if this Motion is granted. *Id.*

5 Plaintiff has declined to file a reply brief.

6
7 A scheduling order “may be modified only for good cause and with the judge’s consent.”
8 Fed. R. Civ. P. 16(b)(4). The decision to modify a scheduling order is within the broad discretion
9 of the district court. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607 (9th Cir. 1992).
10 “Rule 16(b)’s ‘good cause’ standard primarily considers the diligence of the party seeking
11 amendment.” *Id.* at 609. If a party has acted diligently yet still cannot reasonably meet the
12 scheduling deadlines, the court may allow modification of the schedule. *Id.* However, “if that
13 party was not diligent, the inquiry should end” and the motion to modify should not be granted.
14 *Id.* Local Civil Rule 16(m) states that “this rule will be strictly enforced” in order to “accomplish
15 effective pretrial procedures and avoid wasting the time of the parties, counsel, and the court.”
16 While prejudice to the party opposing the modification may provide additional reasons for
17 denying the motion, it is not required to deny a motion to amend under Rule 16(b). *Coleman v.*
18 *Quaker Oats Co.*, 232 F.3d 1271, 1295 (9th Cir. 2000).

19
20
21 Plaintiff has the burden of demonstrating good cause and has failed to do so. The Court
22 finds that Plaintiff hired new counsel who knew of a scheduling conflict. Plaintiff fails to explain
23 why she must proceed with this new counsel or why this otherwise constitutes good cause to
24 modify the scheduling order. Although the prejudice to the Government is likely small, it does
25 exist and weighs against granting this Motion.
26
27
28

1 Having reviewed the relevant pleadings and the remainder of the record, the Court hereby
2 finds and ORDERS that Plaintiff Silbaugh's Motion to Amend Trial Date, Dkt. #60, is DENIED.
3

4 DATED this 12th day of May 2021.
5

6
7 

8 RICARDO S. MARTINEZ
9 CHIEF UNITED STATES DISTRICT JUDGE
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28