

1
2
3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 DENNIS FLORER,

7 Plaintiff,

8 v.

9 DEVON SCHRUM, BRANDY JONES,
10 CARLA SCHETTLER, ALAN WALTER,
11 RICH MOSS, STEVE SUNDBERG, RON
12 KNIGHT, CHRIS BOWMAN, STEVE
13 SICLAIRE, STEVE BARKER, ALAN
14 KUNZ, JOHN CAMPBELL, WILL PAUL, S.
15 SUKERT, KURT GRUBB, CANDICE
16 GERMOAU, JULIE SMITH, SANDY
17 DIIMMEL, AL MOSLEY, MILES
18 LAWSON, RON FRAKER, JOHN OYEN,
19 DREW WALTMAN, GARY PIERCE,
20 MARK KUCZA, DON HOLLBROOK,
21 GERMAINE BENSON, LINDA
22 BELANGER, ELDON VAIL, LAURA
23 WYCKOFF-MEYER, GUSTAVE MEZA,
24 ALAN ROOKSTOOL, EDUARDO
25 MICHEL, (FNU) DANIEL, LORI
26 SCAMAHORN, and JOHN DOES 1-2,

Defendants.

No. C11-5135 BHS/KLS

ORDER GRANTING EXTENSION OF
PRETRIAL DEADLINES

Before the Court is Plaintiff's Motion for Extension of Time to Complete Discovery.

ECF No. 92. Defendants are opposed to the motion. ECF No. 94, at 3.

BACKGROUND

All discovery was to be completed in this case by January 6, 2012. ECF No. 61. The Court extended that deadline to January 26, 2012. ECF No. 74. Plaintiff was granted leave to

ORDER- 1

1 amend his complaint for a second time on March 29, 2012. ECF No. 86. He added Eric Jackson
2 as a defendant. ECF No. 84.

3 On April 24, 2012, Plaintiff mailed Discovery Request No. 2 to E. Jackson and Second
4 Supplement to Discovery Request No. 2 to D. Schrum. ECF No. 94, at 2. However, because the
5 requests were made after the discovery deadline had already passed, counsel for Defendants
6 returned them to Plaintiff with an explanation letter. *Id.* Plaintiff now asks the Court to re-open
7 discovery for sixty days so that he may re-send these interrogatories and file motions to compel,
8 if necessary. ECF No. 92. Defendants oppose the motion because Plaintiff has shown no good
9 cause for the delay. Alternatively, they propose that discovery be opened for the limited purpose
10 of allowing a single set of interrogatories directed to Defendant Jackson and that the other
11 pretrial deadlines be extended accordingly.
12

13 DISCUSSION

14 A scheduling order may only be modified for good cause and with the Court's consent.
15 Fed. R. Civ. P. 16(b)(4). The stringent requirement of Fed. R. Civ. P. 16(b)'s "good cause"
16 standard considers the diligence of the party seeking the amendment. *Johnson v. Mammoth*
17 *Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). "Good cause" for modification of pretrial
18 order's scheduling deadline means that scheduling deadlines cannot be met despite the diligent
19 efforts of the party seeking the extension; carelessness is not compatible with finding of
20 diligence and offers no reason for grant of relief. *Id.*; *Zivkovic v. Southern California Edison*
21 *Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002) (If the party seeking the modification was not diligent,
22 the inquiry should end and the motion to modify should not be granted).
23
24

25 Plaintiff has not shown any reason why he did not pursue the requested discovery of
26 Defendant Shrum earlier. He cannot assert that he was diligent in meeting the scheduling

1 deadline when he took no action for months after the close of discovery, with no explanation.
2 However, because he was allowed to amend his complaint to add Defendant Jackson, he should
3 be allowed to request discovery from Defendant Jackson.

4 Accordingly, it is **ORDERED**:

5 (1) Plaintiff's motion (No. 92) shall be **granted in part and denied in part**.

6 Plaintiff's motion is **Denied** as to his request to send additional interrogatories to Defendant
7 Schrum; the motion is **Granted** as to Plaintiff's request to send interrogatories to Defendant
8 Jackson.
9

10 (2) The pre-trial deadlines in this case are **re-set** as follows: Discovery (limited to
11 Defendant Jackson) shall be completed by August 17, 2012; Dispositive Motions shall be filed
12 by October 19, 2012; the parties shall file their Joint Status Report by January 18, 2013.

13 (3) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.
14

15 **DATED** this 18th day of June, 2012.

16 

17 Karen L. Strombom
18 United States Magistrate Judge
19
20
21
22
23
24
25
26