

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 20-81163-CV-MIDDLEBROOKS/Brannon

LAGRASSO et al.,

Plaintiffs,

v.

SEVEN BRIDGES HOMEOWNERS
ASSOCIATION, INC., et al.,

Defendants.

**ORDER DENYING MOTION TO EXTEND PRETRIAL
DEADLINES AND TO CONTINUE TRIAL**

THIS CAUSE is before the Court on the Parties' Joint Motion to Modify the Pretrial Scheduling Order and Reassignment of this Case on the Complex Track (the "Motion"), filed on September 22, 2020. (DE 33). Plaintiffs initiated this case on July 16, 2020, and it is currently set for trial on this Court's two-week calendar commencing March 29, 2021. (DE 20 at 1). The Parties now seek a five-month extension of the discovery deadline from January 11, 2021 to June 10, 2021 and a corresponding extension of all pretrial deadlines. (DE 33 at 8). The Motion fails to set forth good cause for the broad relief requested, and it is therefore denied without prejudice.

Rule 16 of the Federal Rules of Civil Procedure requires the Court to issue an order setting forth the schedule upon which the case will proceed. Fed. R. Civ. P. 16(b). This schedule will be modified "only for good cause." Fed. R. Civ. P. 16(b)(4). The good cause standard "precludes modification unless the schedule cannot 'be met despite the diligence of the party seeking the extension.'" *Sosa v. Airprint Sys., Inc.*, 133 F.3d 1417, 1418 (11th Cir. 1998) (citing Fed. R. Civ.

P. 16 advisory committee's note). "If a party was not diligent, the good cause inquiry should end." *Id.* (quoting *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir.1992)).

Here, the Parties attribute their need for the requested five-month extension of the discovery deadline primarily to the complexity of this case. (DE 33 at 4). Specifically, the Parties state that: (1) they have already identified 25 witnesses that they intend to depose and estimate that, through discovery, they will identify at least 10 additional witnesses, exclusive of any expert witnesses; and (2) they anticipate needing to conduct a detailed review of approximately 85 social media posts allegedly made by Plaintiff Deborah LaGrasso. (DE 33 at 4-6). The Parties also argue that they will be prejudiced by the present expert witness disclosure deadlines; however, in support, the Parties state that currently only Defendant Rachel Aboud Tannenholz expects to hire one expert witness. (*Id.* at 6-7). Based on these assertions, which largely pertain to the volume of anticipated discovery and the proximity of one deadline to another, I am not persuaded of the need to grant the broad relief requested. The Parties point to no specific obstacle which will prevent them from timely completing discovery before the current discovery deadline, which is January 11, 2021. Essentially, this Motion consists of nothing more than generalized assertions regarding the Parties' perceived complexity of the case and the number of moving pieces that may or may not come into play to fully develop this record.

On the whole, I view this Motion to extend all deadlines and to continue trial as premature, considering that the first discovery deadline is not for three weeks, the deadline to complete all discovery is not for approximately three-and-a-half months, and the case is not set to go to trial for six months. (DE 20 at 5-6). For the time being, the Parties should diligently attempt to comply with the Pretrial Scheduling Order as set, and as the case progresses, if the Parties are unable to meet a specific deadline, they may move for an extension as to that deadline by setting forth

specific facts describing the particular obstacles that have prevented timely compliance with the litigation deadline as well as specific facts as to the nature of any efforts made to comply with the deadline sought to be extended.

I note that the Parties also argue that due to the complexity of this case and the anticipated discovery demands, this matter should be placed on the “complex track” as described by Local Rule 16.1(a)(2). As I previously advised the Parties in my September 10, 2020 Order, I do not generally adhere to the case management tracks set forth in the Local Rules. (DE 29 at 2). Instead, as explained above, I rely on the good cause standard of Rule 16 of the Federal Rules of Civil Procedure and the Eleventh Circuit’s interpretation thereof.

Finally, the Parties point to the fact that two motions to dismiss have been filed and remain pending. The filing of a motion to dismiss is not good cause for a five-month extension of the discovery deadline, even if the issues involved in the motions are potentially dispositive of the case. I will rule on the motions to dismiss in due course. In the interim, the Parties should diligently move the case along in litigation, including by conducting necessary discovery, as the pendency of those motions does not stay any of the deadlines set forth in the Pretrial Scheduling Order.

The Parties are reminded that, should they desire greater flexibility in setting the course and schedule, including the trial date, of their case, they may consent to the jurisdiction of United States Magistrate Judge Dave Lee Brannon, who generally allows for such. The consent form can be found at Appendix A of the Pretrial Scheduling Order (DE 20 at 8-9).

Accordingly, for the foregoing reasons, it is hereby **ORDERED AND ADJUDGED** that the Parties' Joint Motion to Modify the Pretrial Scheduling Order and Reassignment of this Case on the Complex Track (DE 33) is **DENIED**.

SIGNED, in Chambers, at West Palm Beach, Florida, this 28th day of September, 2020.

A handwritten signature in black ink, appearing to read 'Donald M. Middlebrooks', written over a horizontal line.

Donald M. Middlebrooks
United States District Judge

cc: All Counsel of Record