

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 17-61390-CIV-ALTONAGA/Goodman**

**GRISEL ALONSO,**

Plaintiff,

vs.

**VICTOR ELMALEH, et al.,**

Defendants.

---

**ORDER**

**THIS CAUSE** came before the Court on Plaintiff, Grisel Alonso's Motion to Extend Deadlines in Scheduling Order [ECF No. 64], filed April 13, 2018. On November 2, 2017, the Court entered its Order Setting Trial [ECF No. 42] setting forth the trial date and pre-trial deadlines in this case, including an April 23, 2018 deadline to complete discovery. Plaintiff now seeks a 90-day extension of court-imposed discovery and pre-trial deadlines. (*See generally* Mot.).

"In order to obtain necessary discovery in this action" (Mot. ¶ 7(a)), Plaintiff moved the Court to issue two Requests for Judicial Assistance (*see* Motions for Issuance of Letter Rogatory [ECF Nos. 54 & 55]) some four weeks later, on November 29, 2017. On November 30, 2017, the Court granted the Motions, issuing Letters Rogatory to the Superior Court of Justice of Ontario, Canada and the Superior Court of Quebec, Canada. (*See* November 30, 2017 Orders [ECF Nos. 56 through 59]). Plaintiff claims she "immediately began working with her Canadian counsel to have the Requests for Judicial Assistance filed and served upon the necessary financial institutions in Canada" (Mot. ¶ 7(d)), but Plaintiff's Canadian counsel did not file application materials to

enforce the Request for Judicial Assistance in the Superior Court of Quebec until January 16, 2018 (*see id.* ¶ 7(e)), and did not file application materials to enforce the Request for Judicial Assistance in the Ontario Superior Court of Justice until February 7, 2018 (*see id.* ¶ 7(g)). The Superior Court of Quebec granted Plaintiff's application to enforce the Request for Judicial Assistance against BMO Bank of Montreal on January 26, 2018 (*see id.* ¶ 7(f)), and the Ontario Superior Court of Justice granted Plaintiff's application to enforce the Request for Judicial Assistance against TD Canada Trust Bank and Toronto Dominion Bank (collectively, "TD"), as well as Scotiabank, on February 15, 2018 (*see id.* ¶ 7(i)).

Plaintiff did not receive a first tranche of documents from BMO pursuant to the Quebec Order until February 14, 2018 (*see id.* ¶ 7(h)), and did not receive a first tranche of documents from TD pursuant to the Ontario Order until March 2, 2018 (*see id.* ¶ 7(k)). Plaintiff did not receive a response from Scotiabank until March 9, 2018, when counsel for Scotiabank informed Plaintiff it had no documentation responsive to the Ontario Order. (*See id.* ¶ 7(m)). Plaintiff expects to receive additional tranches of documents from TD and BMO. (*See id.* ¶¶ 7(k), (n)). Plaintiff states "[i]t is very likely that the documents Plaintiff receives in response to the Requests for Judicial Assistance will prompt additional discovery requests to the parties and/or other subpoenas to third parties." (*Id.* ¶ 7(p) (alteration added)). Plaintiff contends "[d]espite Plaintiff's timeliness and diligence in propounding discovery, she was forced to wait several months to obtain significant discovery" and "through no fault of her own, Plaintiff still has not received all of the discovery due pursuant to the Requests for Judicial Assistance." (*Id.* ¶ 7(o) (alteration added)). Thus, "Plaintiff is not in a position to conclude discovery by April 23, 2018" (*id.* ¶ 8), and requests the Court extend all deadlines by 90 days (*see id.* 7).

Under Federal Rule of Civil Procedure 16(b)(4), a scheduling order "may be modified only

for good cause and with the judge's consent." This good cause standard precludes modification unless the schedule cannot be met despite the diligence of the parties seeking the extension. *See, e.g., Oravec v. Sunny Isles Luxury Ventures, L.C.*, 527 F.3d 1218, 1232 (11th Cir. 2008) ("We have recognized that Rule 16[b]'s good cause standard 'precludes modification [of the scheduling order] unless the schedule cannot be met despite the diligence of the party seeking the extension.'" (first alteration added; citation omitted)); *Roberson v. BancorpSouth Bank, Inc.*, Civ. Act. No. 12-0669-WS-N, 2013 WL 4870839, at \*2 (S.D. Ala. Sept. 12, 2013) ("Diligence, not lack of prejudice, is the touchstone of the Rule 16(b)(4) inquiry.").

Despite Plaintiff's claim the delay in discovery was "through no fault of her own" (Mot. ¶ 7(o)), there are numerous unexplained delays in the timeline she offers. For instance, Plaintiff does not explain why it took her until November 29, 2017 to move the Court to issue the Requests for Judicial Assistance, when the Order Setting Trial was entered on November 2, 2017. Nor does Plaintiff explain why it took her until January 16, 2018 to file application materials in the Superior Court of Quebec and until February 7, 2018 to file application materials in the Ontario Superior Court of Justice, when the Court had granted and issued Plaintiff's two Requests for Judicial Assistance on November 30, 2017.

"District courts have unquestionable authority to control their own dockets. . . . This authority includes broad discretion in deciding how best to manage the cases before them." *Smith v. Psychiatric Sols., Inc.*, 750 F.3d 1253, 1262 (11th Cir. 2014) (alterations added; citations omitted). The Court will not amend the discovery and trial deadlines without good cause being shown as to why the parties could not have met the deadlines set by the Court in early November 2017.

Accordingly, it is

CASE NO. 17-61390-CIV-ALTONAGA/Goodman

**ORDERED AND ADJUDGED** the Motion [ECF No. 64] is **DENIED**.

**DONE AND ORDERED** in Miami, Florida, this 16th day of April, 2018.

  
\_\_\_\_\_  
**CECILIA M. ALTONAGA**  
**UNITED STATES DISTRICT JUDGE**

cc: counsel of record