

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**The Ohio Organizing  
Collaborative, et al.,**

**Plaintiffs,**

**v.**

**Jon Husted, et al.,**

**Defendants.**

**Case No. 2:15-cv-1802**

**Judge Michael H. Watson**

**Magistrate Judge King**

**ORDER**

On July 9, 2015, Magistrate Judge King issued a preliminary pretrial order setting the trial schedule in this case. Prelim. Pretrial Order, ECF No. 23.

Plaintiffs move for reconsideration of that Order. Mot. for Recons., ECF No. 26.

They specifically request that the Court reschedule the trial date and extend the deadline for production of expert reports. For the following reasons, the Court **GRANTS IN PART AND DENIES IN PART** Plaintiffs' motion.

The Court may modify the trial schedule for good cause. Fed. R. Civ. P. 16(b)(4). Whether to do so is within the district court's discretion. *Family Serv. Ass'n of Steuvenville, Ohio v. Wells Twp.*, No. 2:12-cv-135, 2015 WL 3646444, at \*2 (S.D. Ohio June 10, 2015). "The primary measure of Rule 16's 'good cause' standard is the moving party's diligence in attempting to meet the case management order's requirements." *Id.* (internal quotation marks and citation omitted). The Court also considers the possible prejudice to the party opposing

the modification, but the focus is primarily upon the diligence of the movant; the absence of prejudice does not alone constitute good cause. *Id.* (citations omitted).

#### **A. Trial Date**

Magistrate Judge King set the trial date in this case for November 16, 2015. Prelim. Pretrial Order 2, ECF No. 23. Plaintiffs request the Court reschedule the start of trial to either December 14, 2015 or January 11, 2016.

Plaintiffs argue that the current trial date prejudices their ability to develop the factual bases for their claims. They assert that they expect discovery to produce voluminous documents, that they foresee discovery disputes requiring judicial resolution, that the current trial date does not provide sufficient time to identify and prepare witnesses to testify at trial, and that two senior members of their trial team were in trial for most of July.

The Court finds that these considerations do not constitute the good cause necessary to reschedule the trial date. First, the timing of Plaintiffs' discovery requests thus far is somewhat inconsistent with their assertion that their ability to develop the factual bases for their claims will be "severely prejudiced" if they are not granted more time to conduct and evaluate discovery. See Resp. 7, ECF No. 26 (Defendants assert, and Plaintiffs do not dispute, that despite the fact that on June 9 and 11, 2015, counsel for Defendants told Plaintiffs' counsel that they need not wait until the Court's pretrial conference to serve written discovery requests, Plaintiffs did not serve their first set of document requests until July 7,

2015 and had not served any other discovery requests on Defendants as of July 14, 2015). Second, as to the unavailability of two senior members of Plaintiffs' trial team until early August, the Court has no doubt that the work of the other five qualified counsel who have entered appearances in this case, as well as any additional associates at their firms, will alleviate any hardship arising from the limited availability of Mr. Kaul and Mr. Spiva.

Accordingly, the Court **DENIES** Plaintiffs' request to reschedule the trial date.

#### **B. Expert Reports**

Based on the November 16, 2015 trial date, Magistrate Judge King ordered that primary expert reports must be produced by August 28, 2015 and that rebuttal expert reports must be produced by October 2, 2015. Prelim. Pretrial Order 2–3, ECF No. 23.

Plaintiffs request that the deadline to produce primary expert reports be moved to October 16, 2015 and that the deadline for production of rebuttal expert reports be moved to October 30, 2015. Plaintiffs argue that given the expected voluminous discovery, the anticipated discovery disputes, and the number and timing of depositions, Plaintiffs' experts will have insufficient time to collect and analyze relevant information and write their reports by the current deadline.


The Court finds that given the anticipated volume of discovery and the number of intended depositions, good cause exists to modify the deadlines for the production of expert reports. The Court also finds, however, that Plaintiffs'

proposed timeline would prejudice Defendants by allowing them only two weeks to produce rebuttal expert reports. Accordingly, the Court hereby modifies the preliminary pretrial order as follows.

Primary expert reports must be produced by September 18, 2015.

Rebuttal expert reports must be produced by October 16, 2015. **Each expert must be made available for deposition immediately upon the production of his or her expert report.** All non-expert discovery must be completed by October 30, 2015. All expert discovery must be completed prior to the trial date.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
**MICHAEL H. WATSON, JUDGE**  
**UNITED STATES DISTRICT COURT**

## General Information

<b>Court</b>	United States District Court for the Southern District of Ohio; United States District Court for the Southern District of Ohio
<b>Federal Nature of Suit</b>	Civil Rights - Voting[441]
<b>Docket Number</b>	2:15-cv-01802