

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Mark Hendrickson, et al. v. Wal-Mart Associates, Inc., et al.

Hendrickson · No. 23-cv-00110-AJB-BJW · Decided January 8, 2026

SUMMARY

The United States District Court for the Southern District of California denied the parties’ joint motion to amend the scheduling order to accommodate mediation on February 12, 2026. The court held that the parties had not shown good cause under Federal Rule of Civil Procedure 16(b), emphasized their lack of diligence and repeated extension requests, and left the existing deadlines in effect.

CASE DETAILS

COURT	United States District Court for the Southern District of California
JURISDICTION	United States District Court for the Southern District of California
DECIDED	January 8, 2026
DOCKET	23-cv-00110-AJB-BJW
DISPOSITION	other
PROCEDURAL POSTURE	The parties jointly moved to amend the scheduling order and continue all remaining deadlines by approximately 60 days to accommodate mediation.
STANDARD OF REVIEW	Under Federal Rule of Civil Procedure 16(b), a scheduling order may be modified only for good cause and with the judge's consent; the good-cause inquiry primarily considers the diligence of the party seeking modification.
PRECEDENTIAL VALUE	unknown

TOPICS

- motion to amend
- mediation
- civil procedure

PRACTICE AREAS

- civil procedure
- alternative dispute resolution

QUESTIONS PRESENTED

1. Whether the parties demonstrated good cause under Federal Rule of Civil Procedure 16(b) to amend the scheduling order and continue all remaining deadlines by approximately 60 days to accommodate mediation.
2. Whether the parties' agreement to mediate and the availability of only a later mediation date constituted extraordinary circumstances warranting another continuance.

HOLDINGS

1. A scheduling order may be modified only upon a showing of good cause, and the good-cause inquiry primarily turns on the diligence of the party seeking the modification.
2. The parties did not establish good cause or extraordinary circumstances for amending the scheduling order because they delayed substantive settlement discussions until after the factual record closed and had long known of the dispositive-motion deadline.

KEY QUOTATIONS

“A schedule may be modified only for good cause and with the judge’s consent.” (at 1)

“A scheduling order is not a frivolous piece of paper, idly entered, which can be cavalierly disregarded by counsel without peril.” (at 2)

FACTUAL BACKGROUND

The parties completed written discovery, deposition efforts, and the factual record on December 17, 2025, and then began substantive settlement discussions. They secured the first available mediation date for February 12, 2026, after the February 5, 2026 dispositive-motion deadline. The parties had known of the dispositive-motion deadline since February 10, 2025, had been reminded of it on December 15, 2025, and had already sought numerous continuances.

PROCEDURAL HISTORY

The court had entered a scheduling order on February 10, 2025. The parties made multiple prior requests to continue discovery and pretrial deadlines, and the court had warned that no further discovery or expert-related extensions would be granted absent extraordinary circumstances. The court denied the eighth request because the parties had not shown diligence or good cause for the requested continuance.

DISPOSITION

other

CASES CITED

- Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992)
- Zivkovic v. S. Cal. Edison Co., 302 F.3d 1080, 1087 (9th Cir. 2002)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 MARK HENDRICKSON, et al., Case No.: 23-cv-00110-AJB-BJW 12
Plaintiffs, ORDER DENYING JOINT MOTION 13 v. TO AMEND SCHEDULING ORDER TO
ACCOMMODATE MEDIATION 14 WAL-MART ASSOCIATES, INC., et al., ON FEBRUARY
12, 2026 15 Defendants. (Doc. No. 82) 16 17 18 Before the Court is the Joint Motion to Amend
Scheduling Order to Accommodate 19 Mediation on February 12, 2026.

(Doc. No. 82.) The parties seek an approximately 60-day 20 continuance of all remaining dates
and deadlines from the Court's February 10, 2025 21 Scheduling Order Regulating Discovery and
Other Pre-Trial Proceedings (Doc. No. 53). 22 (Doc. No. 82 at 4–5.)

In support of the joint motion, the parties state: 23 Immediately upon completion of their written
discovery, deposition efforts, and the closing of the factual record in this matter on December 17,
2025, the 24 Parties engaged in substantive settlement discussions.

To that end, the Parties 25 have agreed to mediate and have reserved the first-available date with
mediator Kevin T. Barnes of February 12, 2026. 26 27 (Id. at 3.) This is the parties' eighth request
to continue discovery- and/or pre-trial-related 28 deadlines. (Doc. Nos. 58; 60; 65; 67; 71; 74; 77;
80.) 1 "A schedule may be modified only for good cause and with the judge's consent." 2 Fed.

R. Civ. P. 16(b). "Rule 16(b)'s 'good cause' standard primarily considers the diligence 3 of the
party seeking the amendment." Johnson v. Mammoth Recreations, Inc., 975 F.2d 4 604, 609 (9th
Cir. 1992). "The district court may modify the pretrial schedule 'if it cannot 5 reasonably be met
despite the diligence of the party seeking the extension.'" Id. (quoting 6 Fed.

R. Civ. P. 16 advisory committee's note to 1983 amendment). "If the party seeking 7 the
modification 'was not diligent, the inquiry should end' and the motion to modify should 8 not be
granted." Zivkovic v. S. Cal. Edison Co., 302 F.3d 1080, 1087 (9th Cir. 2002) 9 (quoting Johnson,
975 F.2d at 609). 10 Following the parties' December 12, 2025 Joint Motion to Continue Deadline
to 11 Disclose Identity of Experts (Doc.

No. 80), Magistrate Judge Brian J. White held a status 12 conference with the parties "to discuss
various deadlines in the case, namely the 13 Dispositive and Class Certification Motion Deadlines
currently set for February 5, 2026 14 and February 6, 2026, respectively." (Doc. No. 81.)

The Court additionally stated "[n]o 15 further discovery or expert related extensions will be
granted absent extraordinary 16 circumstances." (Id.) 17 Such circumstances are not present here.
It appears that the parties waited until after 18 "completion of their written discovery, deposition
efforts, and the closing of the factual 19 record in this matter on December 17, 2025," to "engage[]
in substantive settlement 20 discussions." (Doc.

No. 82 at 3.) Nothing prevented the parties from initiating substantive 21 settlement discussions before December 17, 2025. Indeed, the parties had an early neutral 22 evaluation conference before Magistrate Judge Michael S. Berg on January 31, 2025. (Doc. 23 No. 52.) This apparent delay presumably contributed to a “first-available date with 24 mediator Kevin T. Barnes” (Doc.

No. 82 at 3) that falls after the parties’ February 5, 2026 25 dispositive motion deadline. The parties have known of this pending deadline since 26 February 10, 2025, and were reminded of it on December 15, 2025. (Doc. Nos. 53; 81.) 27 Based on these facts, the Court concludes that good cause is not present to amend 28 the February 10, 2025 Scheduling Order to continue all remaining deadlines by 60 days.

1 || “A scheduling order is not a frivolous piece of paper, idly entered, which can be cavalierly 2 || disregarded by counsel without peril.” Johnson, 975 F.2d at 610. 3 Insofar as the parties have now “agreed to mediate” (Doc. No. 82 at 3), the Court 4 ||notes that the parties may engage in such settlement proceedings before Magistrate Judge 5 White.

The parties may contact Magistrate Judge White’s chambers to schedule a 6 || mediation session. 7 Accordingly, the Joint Motion to Amend Scheduling Order to Accommodate 8 || Mediation on February 12, 2026, is DENIED. (Doc. No. 82.)

The pending deadlines of the 9 ||February 10, 2025 Scheduling Order (Doc. No. 53) remain in full effect. No further 10 || continuances will be granted absent extraordinary circumstances. 11 IT IS SO ORDERED. 12 Dated: January 8, 2026 14 United States District Judge 15 16 17 18 19 20 21 22 23 24 25 26 27 28