

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Jonathan Graham v. Stryker Corporation, et al.

No. 2:24-CV-01411-DJC-JDP (E.D. Cal. Dec. 4, 2025) · No. 2:24-CV-01411-DJC-JDP · Decided December 5,
2025

OPINION

Graham

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 JONATHAN GRAHAM, No. 2:24-CV-01411-DJC-JDP

12 Plaintiff, 13 v. ORDER 14 STRYKER CORPORATION, et al., 15 Defendants. 16 17 Before
the Court is Stryker Employment Company, LLC’s Motion to Amend 18 Answer. (Mot. (ECF No.
36).) Stryker seeks leave to allege two additional affirmative 19 defenses to Plaintiff Jonathan
Graham’s wage-and-hour class action lawsuit: (1) Offset 20 and (2) Arbitration, and to make
clarifying revisions to previously asserted affirmative 21 defenses of Failure to Exhaust
Administration Remedies and Good Faith. For the 22 reasons discussed below, the Motion is
DENIED. 23 //// 24 //// 25 //// 26 //// 27 //// 28 ////

1 BACKGROUND

2 On April 11, 2024, Plaintiff Jonathan Graham (“Plaintiff”) initiated this wage-and- 3 hour class
action in state court against Defendants Stryker Corporation, Stryker 4 Employment Company,
LLC, and Stryker Medical and Surgical Equipment 5 Corporation (“Stryker”), alleging violations
of the California Labor Code. (See 6 generally Compl. (ECF No. 1-1).) On May 17, 2024, Stryker
removed the action to this 7 Court. (NOR (ECF No. 1.) Plaintiff filed a motion to remand, which
this Court denied. 8 (ECF Nos. 10, 19.) Subsequently, Stryker notified the Court it had previously
filed an 9 Answer to Plaintiff’s Complaint in state court. (ECF No. 20.) Pursuant to the parties’ 10
stipulation, Stryker Corporation and Stryker Medical and Surgical Equipment 11 Corporation
were dismissed from the case. (ECF No. 26.) 12 The Court issued a Scheduling Order on March
12, 2025. (ECF No. 22.) 13 Thereafter, Stryker filed objections to the scheduling order and a
request to modify 14 the discovery and class certification deadlines and class certification briefing
15 schedule. (ECF No. 23.) The Court granted Stryker’s objections in part and denied 16 them in
part, permitting an extended class certification briefing schedule but denying 17 the request to
revise the discovery and class certification deadlines. (ECF No. 27.) No 18 other changes to the
scheduling order were made. (Id.) On May 28, 2025, Stryker 19 filed a Motion to Bifurcate, which

this Court denied. (ECF Nos. 28, 35.) 20 Stryker now moves for leave to file an amended Answer to add new affirmative 21 defenses and modify certain existing ones. (See generally Mot.) The Motion is fully 22 briefed. (Opp’n (ECF No. 38); Reply (ECF No. 39).) Pursuant to Local Rule 230(g), the 23 Motion was ordered submitted without appearance and without oral argument. (ECF

24 No. 40.)

25 ANALYSIS

26 Once the deadline for amending pleadings established in a pretrial scheduling 27 order passes, Rule 16, which controls the modification of a district court’s scheduling 28 order, governs the amendment of pleadings. *Coleman v. Quaker Oats Co.*, 232 F.3d 1 1271, 1294 (9th Cir. 2000); *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 2 (9th Cir. 1992). District courts are not required to imply a de facto motion to modify 3 the scheduling order when a motion to amend is untimely filed, as here. *Phila. 4 Indemn. Ins. Co. v. IEC Corp.*, No. 8:16-cv-00295-DOC-DFM, 2017 WL 5664988, at *3 5 (C.D. Cal. Jul. 27, 2017) (“The Ninth Circuit does not automatically consider an 6 untimely motion to amend a [pleading] to be a motion to modify the scheduling 7 order.”) If the district court chooses to construe the motion to amend as a motion to 8 modify the scheduling order, however, Federal Rule of Civil Procedure 16 applies. 9 Under Rule 16(b), “[a] schedule may be modified only for good cause and with the 10 judge’s consent.” Fed. R. Civ. Proc. 16(b)(4). If “good cause” is shown, then the party 11 seeking amendment must demonstrate that amendment is proper under Rule 15. 12 *Johnson*, 975 F.2d at 608. 13 This Court’s scheduling order issued on March 12, 2025, provided that no 14 further amendments to pleadings would be permitted without leave of Court and a 15 showing of good cause. (ECF No. 22 at 1.) The modified scheduling order left this

16 March 12, 2025, deadline unchanged. (See generally ECF No. 29.) While Stryker’s 17 motion to amend its answer is untimely and may be denied on that basis, see U.S. 18 *Dominator, Inc. v. Factory Ship Robert E. Resoff*, 768 F.2d 1099, 1104 (9th Cir. 1985) 19 (holding that a district court properly denied a motion as untimely where it was filed 20 after the applicable scheduling order deadline and the movant did not request a 21 modification of the scheduling order), superseded by statute on other grounds as 22 stated in *Bastidas v. Chappell*, 791 F.3d 1155 (9th Cir. 2015), the Court will address 23 whether Stryker has made a showing of good cause. 24 In its moving papers seeking leave to amend, Stryker appeals to Federal Rule of 25 Civil Procedure 15, but Stryker cannot not rely on those liberal amendment 26 procedures after the deadline to amend pleadings has passed. Rather, Stryker’s 27 “tardy motion ha[s] to satisfy the more stringent good cause showing required under

28 Rule 16.” *AmerisourceBergen Corp. v. Dialysist West, Inc.*, 465 F.3d 946, 952 (9th Cir.

1 2006) (cleaned up). “Rule 16(b)’s ‘good cause’ standard primarily considers the 2 diligence of the party seeking amendment.” *Johnson*, 975 F.2d at 609. Courts assess 3 the following factors: 4 [T]o demonstrate diligence under Rule 16’s “good cause” standard, the movant may be required to

show the 5 following: (1) that she was diligent in assisting the Court in creating a workable Rule 16 order; (2) that her 6 noncompliance with a Rule 16 deadline occurred or will occur, notwithstanding her diligent efforts to comply, 7 because of the development of matters which could not have been reasonably foreseen or anticipated at the time 8 of the Rule 16 scheduling conference; and (3) that she was diligent in seeking amendment of the Rule 16 order, once 9 it became apparent that she could not comply with the order. 10 11 *Wake Forest Acquisitions, L.P. v. Vanderbilt Com. Lending, Inc.*, No. 2:15-cv-02167- 12 KJM-DB, 2018 WL 1586362, at *3 (E.D. Cal. Apr. 2, 2018). 13 Plaintiff notes that Stryker represented in the March 3, 2025 Joint Status Report, 14 which was filed before the Scheduling Order was issued, that “[n]o amendments to 15 the pleadings are anticipated.” (ECF No. 21 at 4.) As to the offset defense, however, 16 Stryker contends that “it could not have reasonably discovered the commission 17 overpayment underlying its offset defense any earlier,” as such a discovery would 18 have required “tens of thousands of hours” to identify, given the scale and complexity 19 of the data. (Reply at 12–13.) Stryker points out that the discovery of the commission 20 overpayment did not occur until June 6, 2025, when a commission analyst 21 investigating an unrelated commission matter inadvertently discovered it. (Buczek 22 Decl. (ECF No. 36-3) ¶ 3.) Stryker asked Plaintiff about the overpayment in the July 2, 23 2025, deposition and “Plaintiff testified that the sale in question was an ‘incentivized’ 24 deal and speculated as to why he may have been entitled to a larger commission on 25 the sale.” (Nordlander Decl. (ECF No. 36-2) ¶ 6.)¹ After investigating the matter, 26 27 1 The parties dispute the reasonableness of Stryker’s actions taken during the July 2, 2025 deposition 28 with respect to Exhibit 15, however, it appears that Plaintiff authorized certain redactions that he later 1 Stryker sought Plaintiff’s agreement to stipulate to amending the Answer and failing to 2 secure that, Stryker filed the instant motion within eleven days of Plaintiff’s denial. 3 (Reply at 14.) 4 The Court finds that Stryker has not established good cause. “Diligence is a 5 case-specific inquiry that turns primarily on the length of time between the ground 6 necessitating amendment and the movant’s request to amend.” *Cervantes v. 7 Zimmerman*, Nos. 17-cv-1230-BAS-NLS, 18-cv-1062-BAS-NLS, 2019 WL 1129154, at *5 8 (S.D. Cal. Mar. 12, 2019) (cleaned up and citations omitted). Here, Stryker had 9 possession of the commission reports, and the overpayment information, since the 10 initiation of the lawsuit in April 2024. The Court does not find credible Stryker’s 11 argument that it would require investing “tens of thousands of hours” in reviewing 12 these reports. In any event, the commission overpayment pertains to Plaintiff’s 13 individual claims, which Stryker should have been assessing from the outset of the 14 case. 15 So, too, with the arbitration defense. Stryker appears to suggest that the 16 ground necessitating amendment for the arbitration defense was the Court’s denial of 17 the motion to bifurcate, but it is undisputed that Stryker knew of the class action 18 nature of the lawsuit from the outset of litigation and Stryker concedes that it “had 19 access to arbitration agreements for certain putative class members.” (Reply at 15.) 20 “A party is not considered to have acted diligently where the proposed amendment is 21 based on information that the party

knew, or should have known, in advance of the 22 [scheduling order] deadline.” Powell v. County of Solano, No. 2:19-cv-02459-JAM-DB, 23 2022 WL 484837, at *2 (E.D. Cal. Feb. 16, 2022) (citation omitted). 24 At bottom, Defendant was not diligent in utilizing information that it had at its 25 own disposal since the initiation of this litigation. Because Stryker has not met the 26 Rule 16 requirement of good cause, the Court need not analyze the factors under Rule 27 Stryker adequately explains the basis for providing Exhibit 15 as an excerpt during the deposition. (Id. 28 ¶ 3.) 1 | 15. If the party seeking the modification “was not diligent, the inquiry should end.” 2 | Johnson, 975 F.2d at 609.

3 CONCLUSION

4 For the foregoing reasons, IT IS HEREBY ORDERED that Defendant's Motion to 5 | Amend Answer (ECF No. 36) is DENIED. 6 j IT IS SO ORDERED. 8 | Dated: _December 4, 2025
“Daniel A CoD to— Hon. Daniel alabretta

? UNITED STATES DISTRICT JUDGE

10 11 DJC8-Stryker.24cv1411.mot. to amend answer 12 13 14 15 16 17 18 19 20 21 22 23 24 25
26 27 28