

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Impossible Foods Inc. v. Impossible LLC

No. 5:21-cv-02419-BLF (N.D. Cal. June 27, 2025) · No. 5:21-cv-02419-BLF · Decided June 27, 2025

SUMMARY

The United States District Court for the Northern District of California grants Plaintiff Impossible Foods Inc.’s motion to modify the scheduling order. The Court extends the deadlines for dispositive motions and resets the dispositive-motion hearing, final pretrial conference, and trial because an ongoing in camera review may produce potentially important evidence and the existing schedule cannot reasonably accommodate the case’s expanded claims and jury-trial demands. The Court finds good cause under Federal Rule of Civil Procedure 16(b)(4).

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Beth Labson Freeman
JURISDICTION	United States District Court for the Northern District of California
DECIDED	June 27, 2025
DOCKET	5:21-cv-02419-BLF
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Civil Procedure 16(b)(4) to modify the scheduling order, extend the dispositive-motion deadlines, and reset the trial and pretrial dates because related in camera review proceedings concerning potentially privileged evidence remained pending.
STANDARD OF REVIEW	A scheduling order may be modified only for good cause and with the judge’s consent; the inquiry primarily considers the diligence of the party seeking modification, with prejudice to the opposing party as a secondary consideration.
PRECEDENTIAL VALUE	unpublished district court order; precedential status unknown

TOPICS

- civil procedure
- summary judgment
- discovery dispute
- commercial litigation
- intellectual property

PRACTICE AREAS

civil procedure

commercial litigation

intellectual property

QUESTIONS PRESENTED

1. Whether Plaintiff demonstrated good cause under Federal Rule of Civil Procedure 16(b)(4) to modify the scheduling order and extend the dispositive-motion deadlines while potentially critical evidence remained subject to pending in camera review.
2. Whether the existing trial schedule should be reset because the claims and nature of the case had materially changed and the court lacked sufficient availability for the anticipated jury trial.

HOLDINGS

1. A scheduling order may be modified when it cannot reasonably be met despite the diligence of the party seeking the extension, and Plaintiff established that good cause existed here.
2. The trial and related pretrial deadlines should be reset because the claims and nature of the case had evolved significantly and the existing schedule did not provide sufficient time for the anticipated jury trial.

KEY QUOTATIONS

“Under Federal Rule of Civil Procedure 16, a district court’s scheduling order “may be modified only for good cause and with the judge’s consent.”” (II)

“The Court concludes that this is a situation in which the case schedule “cannot reasonably be met despite the diligence of the party seeking the extension.”” (III)

FACTUAL BACKGROUND

Fact discovery closed shortly before Plaintiff deposed a Defendant representative and sought in camera review of potentially privileged emails under the crime-fraud exception. The district court granted Plaintiff relief from the magistrate judge's initial denial of that request, but the in camera review remained pending when the dispositive-motion deadline approached. The case had also expanded beyond the assumptions underlying the original schedule, including an increase in claims and Defendants' request for a jury trial rather than the anticipated brief bench trial.

PROCEDURAL HISTORY

Fact discovery closed on April 14, 2025. After a deposition, Plaintiff sought in camera review of potentially privileged documents under the crime-fraud exception; a magistrate judge initially denied the request, but the district judge granted relief from that order, and the in camera proceedings remained pending. Plaintiff then moved to modify the scheduling order, Defendants opposed, and the district court granted the motion, extending the dispositive-motion deadlines and resetting the hearing, final pretrial conference, and trial dates.

DISPOSITION

CASES CITED

- Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992)
- Harrison Beverage Co. v. Dribeck Importers, Inc., 133 F.R.D. 463, 469 (D.N.J. 1990)
- NetFuel, Inc. v. Cisco Sys. Inc., No. 18-cv-02352, 2020 WL 510219, at *1 (N.D. Cal. Jan. 31, 2020)
- Peasley v. Spearman, No. 15-cv-01769, 2017 WL 5451709, at *3 (N.D. Cal. Nov. 14, 2017)

OPINION

Impossible Foods Inc. v. Impossible X LLC

PER CURIAM.

1 2

3 UNITED STATES DISTRICT COURT

4 NORTHERN DISTRICT OF CALIFORNIA

5 SAN JOSE DIVISION

6 7 IMPOSSIBLE FOODS INC., Case No. 5:21-cv-02419-BLF 8 Plaintiff,

ORDER GRANTING PLAINTIFF'S

9 v. MOTION TO MODIFY THE

SCEDULING ORDER

10 IMPOSSIBLE LLC, et al., [Re: Dkt. No. 228] 11 Defendants. 12 IMPOSSIBLE LLC, et al., 13
Counterclaim-Plaintiffs, 14 v.

15 IMPOSSIBLE FOODS INC.,

16 Counterclaim-Defendant. 17 18 Before the Court is Plaintiff's Motion to Modify the
Scheduling Order. Dkt. No. 228 19 ("Mot."). Defendant filed an opposition to the motion. Dkt.
No. 234 ("Opp."). Plaintiff filed a 20 reply in support of its motion. Dkt. No. 237 ("Reply"). The
Court finds this motion suitable for 21 submission without oral argument and hereby VACATES
the hearing scheduled for August 28, 22 2025. See Civ. L.R. 7-1(b). 23 For the reasons stated
below, the Court GRANTS Plaintiff's motion.

24 I. BACKGROUND

25 The Court recites briefly only the background directly relevant to the present motion. 26 Fact
discovery in this proceeding closed on April 14, 2025. See Dkt. No. 113 at 4. A few 27 days prior
to that deadline, Plaintiff Impossible Foods Inc. ("IF") took the deposition of Defendant 1 for
Defendant Impossible LLC ("ILLC"). See Dkt. No. 228-1, Declaration of H. Forrest 2 Flemming,
III ("Flemming Decl.") ¶ 5. The following day, IF served Defendants with a draft 3 portion of a
Joint Discovery Statement seeking in camera review of certain privileged documents 4 under the
crime-fraud exception. Id. ¶ 6. Defendants responded with their portion of the Joint 5 Discovery
Statement on April 15, and IF promptly filed the statement with the Court. See id. ¶ 7. 6 On May

6, 2025, Magistrate Judge Susan van Keulen denied IF's request for in camera review. Dkt. No. 208. IF then sought relief from Judge van Keulen's Order, which the undersigned granted on June 4, 2025. See Dkt. No. 222. Shortly thereafter, Judge van Keulen requested further information about the privileged documents, and the in camera review proceedings remain pending before her. See Dkt. Nos. 224, 233. The deadline for filing the Parties' summary judgment motions is July 3, 2025. Dkt. No. 12 113 at 4. Plaintiff now moves to modify the scheduling order in order to permit the parties approximately thirty-five extra days to prepare their summary judgment filings.

14 II. LEGAL STANDARD

15 Under Federal Rule of Civil Procedure 16, a district court's scheduling order "may be 16 modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). This 17 standard "primarily considers the diligence of the party seeking the amendment." Johnson v. 18 Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992). "Although the existence or degree 19 of prejudice to the party opposing the modification might supply additional reasons to deny a 20 motion, the focus of the inquiry is upon the moving party's reasons for seeking modification." Id. 21 A district court "may modify the pretrial schedule 'if it cannot reasonably be met despite the 22 diligence of the party seeking the extension.'" Id. (citing Fed. R. Civ. P. 16 advisory committee's 23 notes (1983 amendment), and Harrison Beverage Co. v. Dribeck Importers, Inc., 133 F.R.D. 463, 24 469 (D.N.J. 1990)).

25 III. DISCUSSION

26 IF argues that, in light of the ongoing in camera review of "potentially critical documents," 27 the Court should modify the scheduling order to prevent the Parties from needing to submit their 1 IF, "both sides agree that summary judgment is likely to narrow the case significantly," and IF 2 states that modifying the schedule to provide an additional month for preparing the dispositive 3 motions would "allow the Magistrate Judge and the parties ample time to address the in camera 4 review and its results" in advance of the filing of those motions. Id. at 4. IF also points out that 5 the current trial schedule was adopted based on the Parties' representation that this case would 6 require only a brief bench trial. Id. at 3. Since then, however, the number of claims has expanded 7 significantly and Defendants have requested a jury trial, id., meaning that the currently scheduled 8 dates may no longer be appropriate. That said, IF expresses that it desires only a brief extension 9 of the schedule: IF hopes that the Court might be "available to conduct a trial later in 2025 or in 10 the first half of 2026." Id. 11 Defendants vehemently oppose IF's motion, arguing that IF is "seek[ing] to overturn the 12 entire case calendar only four months before trial based on the mere possibility" that Judge van 13 Keulen may order production of a few privileged emails. Opp. at 1. Defendants make two points 14 in their opposition brief: First, they argue that "it is far from assured that any further production 15 will be made at all," and that "even if produced, there is no assurance . . . that the information 16 contained in those communications is material or non-cumulative." Id. at 4. In any event, 17 Defendants believe that "the current case schedule allows

sufficient time for Impossible Foods to 18 supplement the summary judgment record to introduce any later-produced information.” Id. at 5. 19 Second, Defendants argue that the delay would cause “significant prejudice to Impossible LLC” 20 by “forc[ing] Impossible LLC to operate under the cloud of ongoing litigation, with all of its 21 practical, financial, and reputational consequences.” Id. As an example, Defendants state, without 22 supporting evidence, that there have been “numerous instances of Impossible LLC having lost 23 control of its brand through actual confusion.” Id. 24 The Court concludes that this is a situation in which the case schedule “cannot reasonably 25 be met despite the diligence of the party seeking the extension.” *Mammoth Recreations, Inc.*, 975 26 F.2d at 609. IF acted with diligence in seeking this additional discovery immediately after 27 eliciting the deposition testimony that led it to believe the emails might contain crucial evidence 1 possibility that Judge van Keulen will decline to require production of any of the privileged 2 emails, it makes little sense for IF to file its motion for summary judgment while awaiting 3 potentially critical evidence going to the heart of two of its claims. In the event that the emails do 4 contain important, material evidence—perhaps resulting in the reopening of the deposition of Mr. 5 Runyon—it would not be an efficient use of Court resources to deal with multiple of IF’s claims 6 via supplemental briefing (which might be received close in proximity to, or even after, the 7 scheduled summary judgment hearing). See *NetFuel, Inc. v. Cisco Sys. Inc.*, No. 18-cv-02352, 8 2020 WL 510219, at *1 (N.D. Cal. Jan. 31, 2020) (“Although successive motions for summary 9 judgment are not categorically barred, they are generally disfavored in federal court.” (quoting 10 *Peasley v. Spearman*, No. 15-cv-01769, 2017 WL 5451709, at *3 (N.D. Cal. Nov. 14, 2017))). 11 Any prejudice to Defendants is a secondary consideration—and in any case, the Court does not 12 believe that a short additional delay is prejudicial where it might permit the Parties to put forth 13 more complete summary judgment motions that may significantly reduce the burden and expense 14 of trial. 15 Moreover, Plaintiff is correct in anticipating that the Court’s schedule will not permit a 16 potential jury trial of five or more court days beginning on November 10, 2025. Because both the 17 claims and nature of the case have evolved so significantly since the trial dates were selected, it is 18 necessary to reset the trial to a time at which the Court has more extended availability. 19 Accordingly, the Court determines that IF has demonstrated good cause for a brief extension of the 20 summary judgment and trial deadlines.

21 IV. ORDER

22 For the foregoing reasons, IT IS HEREBY ORDERED that Plaintiff’s Motion to Modify 23 the Scheduling Order is GRANTED. The Case Schedule is modified as follows: 24 Event Old Date
New Date 25 Deadline to File Dispositive Motions July 3, 2025 August 8, 2025 26 Deadline for
Oppositions to Dispositive Motions July 17, 2025 August 29, 2025 27 Deadline for Replies in
Support of Dispositive Motions July 24, 2025 September 12, 2025 1 | Dispositive Motion Hearing
Date August 7, 2025 October 23, 2025 2 | Final Pretrial Conference October 16, 2025 February 12,
2026 3 [ria November 10, 2025 | March 9, 2026 4 IT IS SO ORDERED. 5 6 || Dated: June 27,

2025 ’

i H LABSON FREEMAN

8 United States District Judge 9 10 ll a 12 14 © 15 4 16 17 Zz 18 19 20 21 22 23 24 25 26 27 28

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/united-states-district-court-for-the-northern-district-of-california-united-states-district-court-fo/2025/impossible-foods-inc-v-impossible-llc-o5d7v8c1>