

2023 WL 5322435

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United States District Court, N.D. Texas, Dallas Division.

**SECURITIES AND EXCHANGE
COMMISSION**, Plaintiff,

v.

TH WEALTH MANAGEMENT, LLC
and **Brian Keat Hobbs**, Defendants.

CIVIL ACTION NO. 3:20-CV-3676-B

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Signed July 12, 2023

Attorneys and Law Firms

[Nikolay V. Vydashenko](#), United States Securities and Exchange Commission, Fort Worth, TX, [Donald Werner Searles](#), Pro Hac Vice, Stephen Tian Li Kam, Pro Hac Vice, Securities and Exchange Commission, Los Angeles, CA, for Plaintiff.

[J. Stephen Hunnicutt](#), Timothy Adam Robinson, The Hunnicutt Law Firm, Dallas, TX, for Defendants.

ORDER[JANE J. BOYLE](#), UNITED STATES DISTRICT JUDGE

***1** Before the Court is Defendants TH Wealth Management, LLC and Brian Keat Hobbs' Motion for Continuance (Doc. 25). Defendants seek to continue the trial, which is currently set for October 2, 2023, until February or March 2024. Doc. 25, Mot., 2–3. Although the Court may extend a deadline upon a showing of good cause, [Fed. R. Civ. P. 6\(b\)\(1\)](#), Defendants have failed to show good cause for an extension here. Accordingly, the Motion for Continuance (Doc. 25) is **DENIED**.

This case was originally set for trial before the Honorable Sam R. Cummings on September 6, 2022. Doc. 11, Scheduling Order. Judge Cummings then vacated the trial setting on July 25, 2022. Doc. 14, Order. In February 2023, Judge Cummings reset the trial for October 2, 2023. Doc. 18, Order. In June 2023, the case was reassigned to this Court. Doc. 20, Special Order. The Court then ordered the parties to provide “an update as to the current status of this case” as well as “a

proposed litigation timeline or updated scheduling order, if required.” Doc. 21, Status Report Order.

The parties responded with a Joint Status Report. Doc. 22, Joint Status Report. In the report, Defendants' counsel discussed potential conflicts but also unequivocally confirmed that “the Parties [were] ready to proceed with the jury trial in this case ... on October 2, 2023.” *Id.* at 1. Relying on that assertion, the Court issued an Amended Scheduling Order (Doc. 23). Defendants now move to continue the trial. Doc. 25, Mot. Defendants first highlight that their counsel has another trial that conflicts with the trial setting in this case. *Id.* at 2. Defendants also indicate they need additional time to designate an expert following a recent deposition. *See id.* Neither reason provides good cause to continue the trial date.

As to the scheduling conflict, this case was first filed on December 18, 2020. Doc. 1, Compl. Trial was initially set for almost one year ago. *See* Doc. 11, Scheduling Order. And while the continuance was not the fault of the parties, the current October trial date has now been set for five months. *See* Doc. 18, Order (resetting trial date on February 13, 2023). Plaintiff Securities and Exchange Commission (“SEC”) also contends that, per a conversation with the court coordinator of the conflicting state case, the state case was set for trial three months ago (i.e., two months after this case). Doc. 28, Searles Decl., ¶ 3. Finally, the state case is a one-day trial that the state court is amenable to moving. *Id.* In short, therefore, trial in this case is long overdue, this trial was set first, and the one-day trial in the state court can be moved.

As to Defendants' contention that they need more time for **expert disclosures**, their arguments are unconvincing. Most importantly, Defendants have not explained the subject matter of any **expert testimony** they are considering or how the recent deposition implicates such **expert testimony**. *See id.* ¶ 4; *see also* Doc. 25, Mot. Similarly, under the original scheduling order, Defendants were required to make **expert disclosures** by early June 2022. *See Fed. R. Civ. P. 26(a)(2)(D)* (providing that **expert disclosures** are due 90 days before trial); *see also* Doc. 11, Scheduling Order. But Defendants made no disclosures then. Doc. 28, Searles Decl., ¶ 6. Nor have they made any **expert disclosures** in this case by the now-passed deadline. *See id.* The lack of any **expert disclosures**—then or now—undermines Defendants' contention that more time is suddenly needed for **expert disclosures** in this case.

*2 In sum, Defendants' arguments regarding scheduling conflicts and **expert disclosures** do not provide good cause to continue this trial. The Motion for Continuance (Doc. 25) is therefore **DENIED**.

SO ORDERED.

All Citations

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