

After conferring with the parties' attorneys in a federal civil action, the court entered a scheduling order with deadlines for completing discovery and filing dispositive motions. The order set a jury-selection and trial date for two months after the motions deadline.

After the motions deadline expired, and a month before jury selection and trial, the plaintiff's attorney moved for a six-month extension of the discovery, motions, and jury-trial deadlines. The attorney explained that she had been so busy that she had been unable to depose key witnesses or discuss settlement options with her client. The defendant objected to the extension on the ground that there had been ample time to prepare and that the delay would result in increased costs.

Is the court likely to grant the motion?

- A. No, because the attorney has not shown good cause for the delay.
- B. No, because the court has set the date for jury selection.
- C. Yes, because the additional time could facilitate a settlement.
- D. Yes, because the defendant has not shown sufficient prejudice that will result if the requested extension is granted.

Correct

Collecting Statistics

01 min, 09 secsTime Spent

2023Version

## Explanation:

### Pretrial conferences

(FRCP 16(c))

#### Purpose

#### Matters for consideration

##### Expedite litigation

Eliminate frivolous claims & defenses  
Obtain admissions & stipulations  
Set timeline for summary judgment & dispose of pending motions  
Schedule discovery, pretrial briefs & future conferences

##### Improve quality of trial

Amend pleadings  
Refer matters to magistrate or master  
Require separate trial for different claims  
Adopt special procedures for complex/unusual legal issues  
Rule on admissibility of evidence  
Avoid cumulative evidence & limit expert testimony  
Establish order & time limit for presentation of evidence

##### Facilitate settlement

Facilitate just, speedy & inexpensive resolution

**FRCP** = Federal Rule of Civil Procedure.

FRCP 16 permits a federal judge to hold pretrial conferences to expedite litigation, improve the trial's quality, and facilitate settlement. As part of this process, the judge must issue a **scheduling order** that establishes the dates and deadlines for amending **pleadings**, filing motions, completing discovery, and managing trial proceedings. A scheduling order **can be modified if**:

the **moving party shows good cause**—ie, that he/she acted diligently to meet the order's scheduling deadlines but was unable to reasonably do so *and* the **judge consents** to the modification.

Once the moving party has shown that good cause exists, the nonmoving party may defeat the motion by showing that the modification would sufficiently prejudice that party.

Here, the plaintiff's attorney moved to extend the discovery, motions, and jury-trial deadlines established in the court's scheduling order. The attorney wanted these extensions because she claimed to have been too busy to depose key witnesses or discuss settlement options with her client. But since the attorney did not show that she diligently tried to meet those deadlines, the attorney has not shown good cause for the delay. As a result, the court is unlikely to grant the motion.

**(Choice B)** A court can modify any of the dates and deadlines in a scheduling order—including the date for jury selection—if the moving party shows good cause for doing so (not seen here).

**(Choice C)** Extending the scheduling order's deadlines would provide the parties additional time to facilitate a settlement. But the court still cannot modify the order because the plaintiff's attorney failed to show good cause for the extension.

**(Choice D)** The defendant would only need to show that sufficient prejudice will result from the requested extension had the plaintiff shown that good cause existed for the extension.

**Educational objective:**

A scheduling order can be modified if (1) the moving party shows good cause and (2) the judge consents to the modification. Good cause exists when the moving party acted diligently to meet the order's scheduling deadline but was unable to reasonably do so.

**References**

Fed. R. Civ. P. 16(b)(4) (setting forth the standard to modify a scheduling order).

6A Charles Alan Wright et al., Federal Practice and Procedure § 1522.2 (3d ed. 2021) (explaining that good cause is required for a court to modify a scheduling order).

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