

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION  
CASE NO. 8:15-cv-00011-EAK-TBM

OXEBRIDGE QUALITY RESOURCES  
INTERNATIONAL, LLC, and  
CHRISTOPHER PARIS, individually,

Plaintiffs,

vs.

MARC TIMOTHY SMITH,  
individually, and d/b/a CAYMAN  
BUSINESS SYSTEMS,

Defendants,

MARC TIMOTHY SMITH,  
individually,

Counterclaim-Plaintiff,

vs.

OXEBRIDGE QUALITY RESOURCES  
INTERNATIONAL, LLC,

Counterclaim-Defendant.

**AGREED MOTION TO MODIFY CASE  
MANAGEMENT AND SCHEDULING ORDER [D.E. 38]**

Defendant/Counterclaim-Plaintiff, Marc Timothy Smith d/b/a Cayman Business Systems (“Smith”), pursuant to Federal Rule of Civil Procedure 16(b)(4) and Local Rule 3.01, moves for the Court to modify the Case Management and Scheduling Order [D.E. 38] (the “Scheduling Order”), extending the deadline to amend the pleadings from May 13, 2015 to May 27, 2015, and states as follows:

1. On January 5, 2015, Plaintiffs commenced this action through filing their Complaint. [D.E. 1]

2. On February 10, 2015, Smith appeared *pro se* and filed his Answer, Affirmative Defenses and Counterclaim. [D.E. 10, 11 & 17]

3. On March 2, 2015, Plaintiffs moved to strike portions of Smith's Answer and Affirmative Defenses and to dismiss a portion of Smith's Counterclaim. [D.E. 20] Smith filed his response to this motion on March 20, 2015. [D.E. 36] This motion is fully briefed and remains pending before the Court.

4. After the parties filed their Case Management Report on March 20, 2015 [D.E. 34], the Court issued its Scheduling Order on April 1, 2015 [D.E. 38], setting May 13, 2015 as the deadline to amend the pleadings.

5. On May 5, 2015, the undersigned entered their appearance as counsel for Smith. [D.E. 45]

6. Immediately upon filing their appearance, the undersigned conferred with Plaintiffs' counsel multiple times via email and telephone concerning several aspects of the case, including amending Smith's pleadings. Counsel also discussed selecting a mediator and scheduling mediation and it is anticipated that the parties will soon be filing their Notice of Scheduling Mediation with the Court. Counsel also discussed settlement possibilities and continue to explore settlement.

7. Smith requests that the Court modify the Scheduling Order extending the deadline to amend the pleadings from May 13, 2015 to May 27, 2015. This brief, two-week extension will allow the parties to continue to focus their efforts on their ongoing settlement discussions as well as provide the undersigned with adequate time to determine whether seeking to amend

Smith's pleadings will be necessary. The brief, two-week extension sought by this Motion is being made in good faith and no prejudice will result to any party if the relief sought through this Motion is granted.

8. A district court has discretion to modify its scheduling order, which is permitted upon a showing of good cause. Fed.R.Civ.P. 16(b)(4). In determining the presence of good cause, the district court should consider a party's diligence in litigating within the initial proscribed deadlines. *Sosa v. Airprint Sys., Inc.*, 133 F.3d 1417, 1418-19 (11th Cir. 1998). Upon a showing of good cause through diligence in litigating within the initial deadlines, a court may grant modification to its scheduling order where compliance with those initial deadlines cannot be met despite a party's diligence. *See id.* Because the parties have been diligently litigating this action, and are currently engaged in good faith settlement discussions, the Court should permit modification to its Scheduling Order.

9. Pursuant to Local Rule 3.01(g), the undersigned certifies that he has conferred with Plaintiffs' counsel concerning the relief sought in this Motion, who confirmed that Plaintiffs agree to the relief sought herein.

WHEREFORE, Defendant/Counterclaim-Plaintiff, Marc Timothy Smith d/b/a Cayman Business Systems, respectfully requests that the Court modify the Case Management and Scheduling Order [D.E. 38], extending the deadline to amend the pleadings from May 13, 2015 to May 27, 2015, along with such other relief as the Court deems necessary, just and proper.

Respectfully Submitted,

**COZEN O'CONNOR**

By: /s/ Simeon D. Brier

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that, on May 12, 2015, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to electronically receive Notices of Electronic Filing.

By: /s/ Simeon D. Brier  
Simeon D. Brier, Esq.

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