

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MICHIGAN PROTECTION AND  
ADVOCACY SERVICE, INC.,

Plaintiff,

v.

HENRY FORD HEALTH SYSTEM  
ET AL.,

Defendants.

Case No. 20-cv-10033

Stephanie Dawkins Davis  
United States District Judge

**ORDER DENYING IN PART AND GRANTING IN PART DEFENDANTS’  
MOTION TO ADJOURN SUMMARY JUDGMENT BRIEFING DATES  
[ECF NO. 27]**

This matter is before the court on Defendants’ Motion to Adjourn Summary Judgment Briefing Dates. (ECF No. 27). On July 30, 2020, Plaintiff filed a motion for summary judgment. (ECF No. 15). Defendants move this court for an adjournment of their October 6, 2020 deadline to submit a response to Plaintiff’s motion for summary judgment.

Discovery in this matter closed on August 15, 2020. (ECF No. 12). The day before that deadline, pursuant to the court’s Practice Guidelines, Defendants contacted the court seeking to schedule a conference regarding a discovery dispute. After the parties apprised the court of the nature of the dispute, the court

determined that proceeding by way of written motion was the appropriate course and granted defendants permission to file a motion relating to the parties' discovery dispute. On August 27, 2020, Defendants filed a motion to compel. (ECF No. 17). Plaintiff then filed a motion for protective order, addressing the same issues that Defendants raised in their motion to compel. (ECF No. 20). This court referred the motions to Magistrate Judge Patti, who noticed the motions for hearing on October 29, 2020. (ECF No. 24). Defendants therefore request an adjournment of the date for their response deadline to await a decision on the parties' discovery motions and to allow for the completion of discovery, should the court grant Defendants' motion to compel. (ECF No. 27, Page ID 362).

Defendants state that they need the discovery requested in their motion to compel in order to meaningfully respond to the motion for summary judgment. (*See* ECF No. 27, PageID.368).

Fed. R. Civ. P. 16(b)(4) states that courts may modify a scheduling order "only for good cause and with the judge's consent." Courts determine if good cause exists by evaluating the "moving party's diligence in attempting to meet the case management order's requirements." *Inge v. Rock Fin. Corp.*, 281 F.3d 613, 625 (6th Cir. 2002). Defendants initiated action concerning the subject discovery dispute the day before the discovery deadline and filed their motion to compel on August 27, 2020—nearly two weeks after the close of discovery. In addition,

Defendants filed their Motion to Adjourn on September 30, 2020—one week before their summary judgment response deadline. The Defendants were less than vigilant in advising the court of their discovery issues and filing their motion to compel, and further delayed their request for adjournment of their response deadline. Moreover, the Defendants’ Motion does not specifically explain how the lack of discovery it is requesting prohibits them from responding to the Plaintiffs’ motion for summary judgment. The court therefore is unwilling to extend the response deadline until after the discovery motion is decided, but will allow for a short extension in view of the timing of the instant order. At the same time, the court allows for the possibility that success on the motion to compel may result in the revelation of additional evidence which might assist in the resolution of the motion for summary judgment and will allow for additional briefing should that contingency occur.

Accordingly, the court DENIES IN PART AND GRANTS IN PART Defendants’ Motion to Adjourn. Defendants are required to submit their response to Plaintiffs’ motion for summary judgment by October 13, 2020. The court will also allow for supplemental briefing by both parties should the court grant Defendants’ motion to compel, and will issue a briefing schedule and page limitations as necessary.

SO ORDERED.

Dated: October 2, 2020

s/Stephanie Dawkins Davis  
HON. STEPHANIE DAWKINS DAVIS  
United States District Court Judge