
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

FEDERAL TRADE COMMISSION and
UTAH DIVISION OF CONSUMER
PROTECTION,

Plaintiffs,

v.

ZURIXX, LLC, *et al.*,

Defendants.

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION TO AMEND SCHEDULING
ORDER (DOC. NO. 276) AND
DENYING AS MOOT MOTIONS TO
QUASH SUBPOENAS AND FOR
PROTECTIVE ORDERS
(DOC. NOS. 277, 284)**

Case No. 2:19-cv-00713-DAK-DAO

District Judge Dale A. Kimball

Magistrate Judge Daphne A. Oberg

Before the court is a motion to amend the scheduling order, (Doc. No. 276), filed by the Federal Trade Commission and the Utah Division of Consumer Protection, the plaintiffs. Also before the court are nonparties Matt Davis's and Robert Shemin's motions for protective orders and to quash subpoenas. (Doc. Nos. 277, 284.) The court heard oral argument on these motions on June 30, 2021. For the reasons stated at the hearing and described below, the court GRANTS in part and DENIES in part the motion to amend the scheduling order, and DENIES as MOOT both motions to quash.

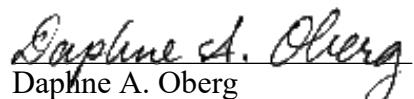
Motion to Amend the Scheduling Order (Doc. No. 276). The motion to amend the scheduling order is granted in part because the plaintiffs have shown good cause to extend fact discovery. It is clear that despite the plaintiffs' diligent efforts, the scheduling deadlines cannot be met. *See Xlear, Inc. v. STS Health, Ltd. Liab. Co.*, No. 2:14-cv-00806, 2017 U.S. Dist. LEXIS 60932, at *2 (D. Utah Apr. 20, 2017) (unpublished). Nevertheless, it is similarly

reasonable for the defendants to request that fact discovery conclude before the deadline for expert discovery. (*See* Doc. No. 295.) To accommodate reasonable time between the fact discovery and expert discovery deadlines and to keep the case on track for a timely trial, the court GRANTS the motion insofar as it seeks an extension of the fact discovery but DENIES the motion insofar as it seeks an extension until December 3, 2021. The fact discovery deadline is extended to October 22, 2021. The court will enter a new amended scheduling order to address the remaining deadlines.

Motions to Quash (Doc. Nos. 277, 284). The motions to quash filed by Mr. Davis and Mr. Shemin are denied as moot. During the hearing on these motions, it became clear the parties were willing to delay the depositions rather than holding them as scheduled. Given this and the extended fact discovery deadline, the FTC withdrew its deposition notices to Mr. Davis and Mr. Shemin (reserving the right to reissue them at a later date). This effectively moots Mr. Davis's and Mr. Shemin's motions. Accordingly, the court DENIES as MOOT the motions to quash.

DATED this 7th day of July, 2021.

BY THE COURT:


Daphne A. Oberg
United States Magistrate Judge