

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:23-cv-01351-RMR-STV

GRCO LLC, a Missouri limited liability company,

Plaintiff,

v.

GRANBY RANCH METROPOLITAN DISTRICT, a quasi-municipal corporation
and political subdivision of the State of Colorado,

Defendant.

JOINT MOTION TO MODIFY SCHEUDLING ORDER

Pursuant to Federal Rule of Civil Procedure 16(b)(4), Plaintiff GRCO LLC (“Plaintiff”) and Granby Ranch Metropolitan District (“Defendant” and collectively, the “Parties”), by and through undersigned counsel, respectfully move this Court to modify the deadlines set forth in the Court’s February 9, 2024, Minute Entry (ECF No. 48) as follows below:

D.C.COLO.LCIVR 7.1 CERTIFICATION

Counsel for the Parties have conferred and agreed to file this joint motion.

MEMORANDUM IN SUPPORT

Federal Rule of Civil Procedure 16(b)(4) allows the Court to modify a scheduling order for good cause and with the Court’s consent. *Lehman Bros. Holdings Inc. v. Universal Am. Mortgage Co., LLC*, 300 F.R.D. 678, 681 (D.

Colo. 2014). Good cause under Rule 16 exists when the scheduling deadlines cannot be met despite the movant's diligent efforts. *Id.* Trial courts have discretion to modify scheduling orders. *Id.*

The Parties request that the Court adopt the proposed amended scheduling order, set forth herein, that extends the discovery and dispositive motion deadlines by approximately two months. The Parties seek this modification because the lack of availability of Defendant's witnesses and counsel for depositions in July and August prevented Plaintiff from completing any depositions prior to its current August 23, 2024, expert disclosure deadline.

Plaintiff commenced this case on July 21, 2023. Defendant moved to dismiss all claims. The Court's order, granting in part and denying in part, Defendant's Motion to Dismiss was entered on February 24, 2024. Thereafter, Plaintiff filed its Second Amended Complaint adding allegations and claims and removing the dismissed claims. Upon Defendant's filing of its response thereto, the claims and defenses in the case were first at issue on April 19, 2024.

The Parties have engaged in written discovery and are working together to schedule fact witness depositions. However, based on the availability of the witnesses and counsel, the earliest date that Defendant offered for its witnesses is September 5, 2024. Thus far, the Parties have scheduled seven depositions of Defendant's witnesses, extending through September 27, 2024.

Defendant's witnesses may have information relevant to the analysis to be undertaken by GRCO's experts. Given the lack of availability for depositions in July and August, Plaintiff will be unable to complete any depositions prior to the current expert disclosure date of August 23, 2024. Accordingly, the Parties seek to continue the upcoming deadlines as follows:

- Rule 26(a)(2) expert disclosures and report(s) by **October 22, 2024** (currently August 23, 2024);
- Service of interrogatories, requests for production of documents and/or admissions by **November 8, 2024** (currently September 9, 2024);
- Rule 26(a)(2) rebuttal expert disclosures by **November 25, 2024** (currently September 25, 2024);
- Discovery completed by **December 23, 2024** (currently October 23, 2024); and
- Dispositive motions filed by **January 3, 2025** (currently November 4, 2024).

This is the second motion to amend the Scheduling Order. The first extension was sought because of the lack of certainty of claims and defenses due to the pendency of Defendant's Motion to Dismiss at the time.

Since the first extension was granted in February 2024, the Parties have diligently worked together to litigate the case. The Parties have progressed through the pleading stage of the case, exchanged written discovery, produced documents and scheduled depositions of Defendant's witnesses, but need additional time to complete depositions and expert disclosures. There will be no

prejudice to the Court or the Parties in granting this extension. This matter has not been set for trial.

Pursuant to D.C.COLO.LCivR 6.1(c), a copy of this Joint Motion has been served contemporaneously by undersigned counsel on their respective clients.

WHEREFORE, the Parties respectfully request that this Court grant their Joint Motion to Modify the Scheduling Order, enter an order extending the deadlines by two months as set forth herein, and for such further relief deemed just and appropriate under the circumstances.

Respectfully submitted,

/s/ Denyse L. Jones

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CERTIFICATE OF SERVICE

I hereby certify that on July 22, 2024, I electronically filed the foregoing **JOINT MOTION TO MODIFY THE SCHEDULING SCHEUDLING ORDER** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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