

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

CASE NO.: 8:20-cv-00394-MSS-SPF

SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
)
v.)
)
KINETIC INVESTMENT GROUP, LLC and)
MICHAEL SCOTT WILLIAMS,)
)
Defendants, and)
)
KINETIC FUNDS I, LLC,)
KCL SERVICES, LLC d/b/a LENDACY,)
SCIPIO, LLC,)
LF42, LLC,)
EL MORRO FINANCIAL GROUP, LLC, and)
KIH, INC. f/k/a KINETIC INTERNATIONAL, LLC,)
)
Relief Defendants.)
_____)

**PLAINTIFF’S MOTION TO AMEND CASE MANAGEMENT AND
SCHEDULING ORDER**

Plaintiff Securities and Exchange Commission (the “Commission”), pursuant to Federal Rule of Civil Procedure 16, respectfully moves to amend the Case Management and Scheduling Order (“Scheduling Order”) [DE 88]. The Commission requests that the case be removed from the trial calendar and

that all remaining deadlines be re-set, if necessary, after the Court rules on the pending motions for summary judgment. In support of this motion, the Commission states:

I. Relevant Procedural Background

1. The Commission filed its Complaint alleging violations of the anti-fraud provisions of the federal securities laws on February 20, 2020 [DE 1]. On the Commission's motion and following a hearing, the Court entered on March 6, 2020 Orders freezing Defendants' and Relief Defendants' assets [DE 33], and appointing a Receiver over the corporate Defendant and Relief Defendants (the "Receivership Entities") [DE 34].

2. On November 5, 2020, the Court entered a judgment of permanent injunction against the Receivership Entities [DE 156] pursuant to their consent [DE 86] and with monetary relief to be addressed upon motion by the Commission.

3. Following discovery, on March 12, 2021, the Commission moved for summary judgment on all 14 counts against Michael Scott Williams ("Williams"), the sole remaining defendant [DE 200]. Williams also moved for summary judgment on all 14 counts against him [DE 202]. Both motions are pending.

4. The trial term is scheduled for the period commencing August 30, 2021. The remaining outstanding pretrial deadlines are the joint final pretrial statement due July 22, 2021; all motions, including motions *in limine*, due July 29, 2021; and deposition transcript designations due August 5, 2021 [DE 88].

II. Modification of the Scheduling Order Is Appropriate

Pursuant to Federal Rules of Civil Procedure 16(b)(4) and 6(b)(1), a court may modify its scheduling order for good cause. *See also Shire Dev., LLC v. Mylan Pharm., Inc.*, No. 8:12-CV-1190-T-36, 2015 WL 809435, at *2 (M.D. Fla. Feb. 24, 2015) (noting that “[d]istrict courts enjoy broad discretion in deciding how best to manage the cases before them.”) (citing *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1366 (11th Cir. 1997)).

Good causes exists to modify the Scheduling Order. The parties’ respective summary judgment motions have been fully briefed and are now pending before the Court. If granted, either of the motions would resolve – wholly or in substantial part – the claims in this action.

The remaining outstanding deadlines, most of which are a month or less away, relate to a potential trial in this matter. If the Court were to grant either of the summary judgment motions, all pretrial filings and a trial itself would not be necessary, or would at least be significantly limited. The Court’s ruling

on either motion also may obviate the expenses attendant to the trial and pretrial deadlines, including Williams' defense fees, which he seeks to draw from frozen funds that would otherwise be available for distribution to investors.

Furthermore, the unresolved legal issues raised in the summary judgment motions have made it challenging for the parties to narrow the issues for their pretrial submissions. For example, the joint final pretrial statement must include a concise statement of each agreed principle of law. *See* Local Rule 3.06(b). It is difficult for the parties to meaningfully advise the Court of the scope of the laws remaining to be litigated in light of the various issues raised in the summary judgment motions.

Accordingly, the Commission requests that the case be removed from the trial calendar and that all other deadlines be re-set - if necessary - after the Court rules on the pending summary judgment motions. The proposed relief will not prejudice any party. Rather, it would conserve the parties' and the Court's resources until the Court has the opportunity to rule on the pending dispositive motions, which may resolve this case entirely or substantially limit the issues for trial. *See Gov't Empl. Ins. Co. v. Martineau*, Case No. 8:19-cv-01382-MSS-SPF (M.D. Fla. June 4, 2021) (DE 68) (endorsed order staying

scheduling order deadlines pending resolution of motions for summary judgment and advising that upon resolution of the motions, any outstanding deadlines, including the trial term, will be re-set if necessary); *Gov't Empl. Ins. Co. v. Glassco*, Case No. 8:19-cv-01950-KKM-JSS (M.D. Fla. Apr. 16, 2021) (DE 145) (endorsed order removing, *sua sponte*, the case from the trial calendar and advising that pretrial deadlines, if necessary, will be re-set after ruling on the pending motions for summary judgment).

LOCAL RULE 3.01(g) CERTIFICATION

Pursuant to Local Rule 3.01(g), counsel for the Commission conferred with counsel for Williams, who opposes the requested relief, and counsel for the Receiver, who does not oppose the requested relief.

July 1, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on July 1, 2021, 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 via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Stephanie N. Moot
Stephanie N. Moot

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