IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPHINE NELSON and MICHELE M. JOHNSON Individually and on Behalf of All Persons Similarly Situated v. ASTRA MERCK, INC.	: : : : : : : : : :	CIVIL ACTION NO. 98-1283

MEMORANDUM AND ORDER

HUTTON, J. June 2, 1999

Presently before this Court is the Plaintiffs' Motion to Extend Deadlines (Docket No. 24) and Defendant's Response (Docket No. 25). For the reasons stated below, the Plaintiffs' Motion is **DENIED**.

I. BACKGROUND

The Complaint in this matter was filed on March 11, 1998. By Order dated June 18, 1998, this Court set several deadlines, including a date for the completion of discovery of March 1, 1999. By Order dated March 9, 1999, this Court granted Plaintiffs' motion for an extension and amended the dates in the June 18, 1998 Order, including a date for the completion of discovery of June 1, 1999, and a date for disclosure of expert testimony of May 2, 1999. On May 20, 1999, the Plaintiffs filed the instant motion requesting

that all dates set forth in this Court's Order of March 9, 1999, be extended for sixty (60) days.

II. DISCUSSION

Under Rule 16(b) of the Federal Rules of Civil Procedure, the Court may only modify the Scheduling Order upon a showing of good cause. Fed. R. Civ. P. 16(b). The Advisory Committee Notes to Rule 16 provide that "the court may modify the schedule on a showing of good cause if it cannot reasonably be met despite the diligence of the party seeking the extension." Not only is Plaintiffs' motion procedurally deficient, it cites to no authority and is absolutely devoid of any substance.

First, Local Rule 7.1(c) provides in pertinent part that: "Every motion not certified as uncontested ... shall be accompanied by a brief containing a concise statement of the legal contentions and authorities relied upon in support of their motion." E.D. Pa. R. Civ. P. 7.1(c). Plaintiffs' motion is not accompanied by any brief and their motion cites to no authority. Thus, the Plaintiff's motion is procedurally deficient.

Second, in order to establish good cause, the Plaintiffs should demonstrate that a more diligent pursuit of discovery was impossible. McElyea v. Navistar Int'l Trans. Corp., 788 F. Supp. 1366, 1371 (E.D.Pa. 1991), aff'd without opinion, 950 F.2d 723 (3d Cir. 1991). The Plaintiffs have failed to sustain their burden as to both the expert disclosures and the additional time needed to

complete discovery. Under the Court's original order, Plaintiff were to make expert disclosures by February 1, 1999. They disclosed nothing. Under the amended scheduling order, they were to make expert disclosures by May 2, 1999. They disclosed nothing. Instead, they file this motion two weeks after the deadline has already passed. Thus, the instant motion is untimely. More importantly, however, Plaintiffs have offered no reason as to why they failed to conduct their discovery within the fourteen months they already have had since the filing of the Complaint.

Moreover, the delay sought by Plaintiffs is prejudicial to the Defendant. By all accounts, Defendant has worked diligently to abide by the schedules and deadlines set by the Court. Compliance with the ordered dates has not come without a substantial investment of effort, resources, and inconvenience to the Defendant, its employees and its counsel. Accordingly, because the Court finds that the Plaintiffs have not shown good cause, the Plaintiffs' motion is denied.

An appropriate Order follows.

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O R D E R

AND NOW, this 2nd day of June, 1999, upon consideration of the Plaintiffs' Motion to Extend Deadlines (Docket No. 24) and Defendant's Response (Docket No. 25), IT IS HEREBY ORDERED that Plaintiffs' Motion is **DENIED**.

BY THE COURT:

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HERBERT J. HUTTON, J.