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14 and all others similarly situated

14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

17 JOYCE WALKER, KIM BRUCE
18 HOWLETT, and MURIEL
19 SPOONER, on behalf of themselves
20 and all others similarly situated,

20 Plaintiffs,

21 v.

22 LIFE INSURANCE COMPANY OF
23 THE SOUTHWEST, a Texas
24 corporation,

25 Defendant.

CLASS ACTION

CASE NO.: CV 10-9198 JVS (RNBx)

Formerly Case No.: 3:10-cv -04852
JSW from Northern District of CA

**AMENDED PRETRIAL
SCHEDULING ORDER AND
ORDER GRANTING PLAINTIFFS'
MOTION TO MODIFY THE
PRETRIAL SCHEDULING ORDER**

1 Having reviewed Plaintiffs Joyce Walker’s, Muriel Lynn Spooner’s, and
2 Kim Bruce Howlett’s (“Plaintiffs”) Motion to Modify the Pretrial Scheduling
3 Order (the “Motion”) and the parties’ papers filed in connection therewith, the
4 Court issues the following Order.

5
6 Plaintiffs seek a modification of the Scheduling Order, extending a number
7 of relevant deadlines and hearing dates approximately four months. A party
8 seeking such a modification must satisfy the standard set forth in Rule 16(b) of the
9 Federal Rules of Civil Procedure. Johnson v. Mammoth Recreations, Inc., 975
10 F.2d 604, 607-08 (9th Cir. 1992). Under Rule 16(b), a party must show “good
11 cause” for relief from a scheduling order. Fed. R. Civ. P. 16(b)(4). The good
12 cause standard “primarily considers the diligence of the party seeking the
13 amendment.” Johnson, 975 F.2d at 609. The court may grant relief from a
14 scheduling deadline if the deadline could not “reasonably be met despite the
15 diligence of the party seeking the extension.” Id. While a court may consider
16 prejudice to the opposing party, “the focus of the inquiry is upon the moving
17 party’s reasons for seeking modification.” Id.

18
19 Here, Plaintiffs were diligent in serving their document production requests,
20 diligent in attempting to resolve the disputes between the parties without resort to
21 this Court’s intervention, and diligent in presenting their Motions to Compel to the
22 Magistrate Judge. (See generally Foster Decl.) Despite this diligence, engaging in
23 that process took several months to complete, and now that production has begun
24 in earnest, both sides appear to agree that several thousand documents have been
25 and/or will be produced by Defendant and must be reviewed by Plaintiffs.
26 (Compare Opp’n at 12 (noting that under the current production schedule, it is
27 employing “forty-five attorneys to review as many as 100,000 documents per
28 week”) with Reply at 1 (referencing actual production by Defendant of 7,391

1 documents consisting of 81,355 pages.) Defendant argues it will be prejudiced by
2 the modification sought by Plaintiffs because it ramped up its document review
3 and production in reliance on the existing, expedited discovery schedule at
4 tremendous cost. However, Defendant fails to explain how denying the present
5 Motion will alleviate the burdens associated with document production. Moreover,
6 the costs to which Defendant refers appear to the Court to flow from the Magistrate
7 Judge's Order regarding production rather than by Plaintiffs' action in seeking
8 relief from the deadlines set forth in the Scheduling Order.

9 Accordingly, for good cause shown, the Court GRANTS the Motion and
10 AMENDS the Scheduling Order as follows:

11
12 1. The trial date is set for January 22, 2013, at 8:30 a.m. The pretrial
13 conference will take place on January 14, 2013, at 11:00 a.m.

14
15 2. Class and merits discovery shall not be bifurcated and shall proceed
16 simultaneously. Fact discovery will remain open until November 5, 2012.

17
18 3. Pursuant to the Trial Order, all interrogatories, requests for
19 documents, and requests for admission shall be served no later than September 21,
20 2012, and all depositions shall commence no later than October 29, 2012.

21
22 4. Expert discovery will remain open until November 5, 2012. In
23 accordance with Rule 26(a)(2), the parties shall submit their expert disclosures no
24 later than September 10, 2012, any rebuttal expert disclosures no later than
25 October 1, 2012, and any reply expert disclosures no later than October 22, 2012.

26
27 5. Plaintiffs may take 3 days of Rule 30(b)(6) depositions, which shall
28 count as one deposition against the limit of 10 depositions permitted under Rule

[PROPOSED] AMENDED PRETRIAL SCHEDULING ORDER AND ORDER GRANTING PLAINTIFFS'
MOTION TO MODIFY THE PRETRIAL SCHEDULING ORDER

1 30. Plaintiffs may request that the Court modify this order to permit additional
2 time if needed to fairly examine the 30(b)(6) deponents.

3

4 6. The last date for hearing motions will be seven weeks before the trial
5 date, or December 3, 2012, hearing to be noticed for 1:30 p.m. The Court orders
6 that all motions shall be served and filed in accordance with the schedule set forth
7 in the Local Rules. Briefing schedules shall be in accordance with Local Rules,
8 unless the parties stipulate and the Court approves an alternative schedule in
9 advance of the filing deadlines set by the Local Rules.

10

11 7. Pursuant to the Trial Order and in compliance with Local Rule 6, all
12 motions *in limine* shall be filed and served no later than December 19, 2012, four
13 weeks prior to the scheduled pretrial date of January 14, 2013.

14

15

16 8. Pursuant to and in compliance with Local Rule 16, the parties' Pretrial
17 Conference Order shall be lodged no later than January 4, 2013.

18

19 9. Pursuant to and in compliance with Local Rule 16, all Memoranda of
20 Contentions of Fact and Law, Exhibit Lists, and Witness Lists shall be submitted
21 no later than December 21, 2012, three and a half weeks prior to the scheduled
22 pretrial date.

23

24 10. The parties will participate in a non-judicial dispute resolution
25 proceeding, Settlement Procedure Number 3 under Local Rule 16-15.4. The last
26 date for completion of this Settlement Procedure shall be no later than the close of
27 fact discovery.

28

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1 11. Plaintiffs will file their motion for class certification on or before May
2 14, 2012. The hearing date shall be determined in accordance with Local Rules,
3 unless the parties stipulate and the Court approves an alternative date and briefing
4 schedule in advance of the class certification motion deadline.

5
6 12. The parties may seek modification of this Order at any time and for
7 good cause shown.

8
9 The Court finds that oral argument would not be helpful in this matter and
10 vacates the November 14, 2011, hearing. Fed. R. Civ. P. 78; Local Rule 7-15.

11
12 **IT IS SO ORDERED.**

13 Dated: November 09, 2011

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17 _____
18 Honorable James V. Selna
19 United States District Judge

20
21 *****Note changes by the Court.*****
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