

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 SOUTHERN DIVISION

4 JOYCE WALKER, KIM BRUCE
5 HOWLETT, and MURIEL SPOONER, on
6 behalf of themselves and all others
7 similarly situated,

8 Plaintiffs,

9 vs.

10 LIFE INSURANCE COMPANY OF THE
11 SOUTHWEST, a Texas corporation, and
12 DOES 1-50

13 Defendant.
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CLASS ACTION

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

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

**DEFENDANT'S [PROPOSED] FIFTH
AMENDED PRETRIAL SCHEDULING
ORDER**

1 Having reviewed the parties' Joint Stipulation Regarding Fifth Amended Pretrial
2 Scheduling Order, and good cause appearing therefore, the Court issues the following
3 Order:

4 1. All of the dates in the Fourth Amended Pretrial Scheduling Order shall be
5 modified as set forth below. This amended schedule generally preserves the deadlines
6 and time periods between the scheduling events as set forth in the Fourth Amended
7 Pretrial Scheduling Order, but extends the scheduled dates to accommodate the time
8 period for finalizing and providing notice to the class after the Ninth Circuit rules on
9 Plaintiffs' Rule 23(f) petition. The scheduling of the trial date below is provisional only,
10 and may need to be reset depending on the Court's calendar.

11 2. The deadlines set forth in the Court's May 28, 2013 Order Regarding Class
12 Notice (Dkt. 446) are vacated, and the parties' meet and confer regarding class notice and
13 submission to the Court of a joint status report setting forth a proposed class notice are
14 deferred until resolution of Plaintiffs' Rule 23(f) petition.¹ In the event that the Ninth
15 Circuit denies Plaintiffs' Rule 23(f) petition, the parties shall, beginning no later than 15
16 days from the entry of an order by the Ninth Circuit denying Plaintiffs' Rule 23(f)

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19 ¹ Although Plaintiffs fully intend to file a Rule 23(f) petition on or before June 12, 2013,
20 in the event that Plaintiffs fail to file such a petition, the deadlines set forth in the Court's
21 May 28, 2013 Order Regarding Class Notice (Dkt. 446) shall begin to run on June 13,
22 2013 (the first date following the time period in which Plaintiffs may file a petition
23 pursuant to Rule 23(f)). Accordingly, if Plaintiffs do not file a Rule 23(f) petition,
24 beginning no later than 15 days from June 13, 2013, the parties shall meet and confer
25 regarding an appropriate class notice. Within 30 days of June 13, 2013, the parties shall
26 file a joint status report setting forth an appropriate notice. In accordance with the Court's
27 May 28, 2013 Order, where the parties are unable to agree upon any portion of the class
28 notice, they shall each set forth their alternative proposals in the same document.

1 petition, meet and confer regarding an appropriate class notice. Within 30 days of the
2 entry of an order by the Ninth Circuit denying Plaintiffs' Rule 23(f) petition, the parties
3 shall file a joint status report setting forth an appropriate notice. In accordance with the
4 Court's May 28, 2013 Order, where the parties are unable to agree upon any portion of
5 the class notice, they shall each set forth their alternative proposals in the same document.

6 In the event that the Ninth Circuit grants Plaintiffs' Rule 23(f) petition, all
7 deadlines in this Order shall be vacated, and the parties shall meet and confer regarding a
8 further amended scheduling order to accommodate the appeal to the Ninth Circuit.

9 3. All discovery, including depositions, will be stayed and deferred until the
10 Ninth Circuit rules on Plaintiffs' Rule 23(f) petition. Notwithstanding this stay of
11 discovery, while Plaintiffs' Rule 23(f) petition is pending, either party may bring a joint
12 stipulation before the Magistrate Judge to resolve any discovery dispute that is currently
13 outstanding or that may arise while Plaintiffs' Rule 23(f) petition is pending.

14 4. The last date for hearing motions will be 7 days after the close of the opt-out
15 period as provided in the class notice approved by the Court. Except as set forth below,
16 all motions shall be served and filed no later than four weeks (28 days) before the last date
17 for hearing motions.

18 5. With respect to any motion for summary judgment that may be filed, the
19 parties will meet and confer on a briefing schedule, but the time between the filing of any
20 summary judgment motion and the hearing date shall be no less than 60 days.

21 6. The trial date will be seven weeks (49 days) after the last date for hearing
22 motions, as set forth in Paragraph 4 above. The pretrial conference will take place 10
23 days before the amended trial date, in accordance with the Fourth Amended Pretrial
24 Scheduling Order.

1 discovery. All expert depositions shall commence no later than the date for the amended
2 close of expert discovery.

3 13. The parties will participate in a non-judicial dispute resolution proceeding,
4 Settlement Procedure Number 3 under Local Rule 16-15.4. The last date for completion
5 of this Settlement Procedure shall be no later than the amended close of non-expert fact
6 discovery.

7 14. The timing and procedures for proposed jury instructions, special verdicts
8 and voir dire questions are set forth at Docket No. 61, pp. 5-6.

9 15. The parties may seek modification of this Order at any time and for good
10 cause shown.

11 16. The latest date for responsiveness of email or attachments to discovery
12 requests shall be May 31, 2013. Thus, the parties shall not be required as part of
13 discovery to review or produce any such materials created after that date.

14 IT IS SO ORDERED.

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17 Dated: _____

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20 Honorable James V. Selna
21 United States District Judge
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