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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA
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12 JUAN JOSE SANCHEZ SILVA,
13 Plaintiff,
14 v.
15 UNITED STATES OF AMERICA,
16 Defendant.

Case No.: 3:21-cv-00589-WQH-AHG

ORDER:

**(1) GRANTING JOINT MOTION TO
EXTEND CASE MANAGEMENT
DEADLINES, and**

**(2) ISSUING FIRST AMENDED
SCHEDULING ORDER**

[ECF No. 28]

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21 Before the Court is the parties' joint motion to amend the scheduling order. ECF
22 No. 28. The parties seek an order from the Court extending case management deadlines by
23 approximately 45 days. *Id.*

24 Parties seeking to continue deadlines in the scheduling order must demonstrate good
25 cause. FED. R. CIV. P. 16(b)(4) ("A schedule may be modified only for good cause and with
26 the judge's consent"); ECF No. 16 at 7 (Scheduling Order, stating that "[t]he dates set forth
27 herein will not be modified except for good cause shown"); *see also* Chmb.R. at 2 (stating
28 that any request for continuance requires "[a] showing of good cause for the request").

1 “Good cause” is a non-rigorous standard that has been construed broadly across
2 procedural and statutory contexts. *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1259
3 (9th Cir. 2010). The good cause standard focuses on the diligence of the party seeking to
4 amend the scheduling order and the reasons for seeking modification. *Johnson v. Mammoth*
5 *Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992) (“[T]he focus of the inquiry is upon
6 the moving party’s reasons for seeking modification. . . . If that party was not diligent, the
7 inquiry should end.”) (internal citation omitted). Therefore, “a party demonstrates good
8 cause by acting diligently to meet the original deadlines set forth by the court.” *Merck v.*
9 *Swift Transp. Co.*, No. CV-16-01103-PHX-ROS, 2018 WL 4492362, at *2 (D. Ariz. Sept.
10 19, 2018).

11 Here, the parties have represented to the Court that they have been working
12 diligently to abide by the Court’s Scheduling Order (ECF Nos. 16, 25). ECF No. 28. The
13 parties represent that the Mexican medical records identified a psychiatrist, Dr. Bhatia, who
14 had not been previously disclosed. ECF No. 28-1 at 2. Defendant obtained Dr. Bhatia’s
15 treatment records via subpoena on May 11, 2022. *Id.* Additionally, it was uncovered during
16 initial expert designations that another treatment provider had not been previously
17 disclosed during discovery, and Plaintiff produced records from that treatment provider on
18 May 25, 2022. *Id.* at 3. Further, the parties’ retained neuropsychology experts are awaiting
19 raw data from the testing done during Plaintiff’s Rule 35 medical examination, which has
20 not yet been completed. ECF No. 29 at 2; ECF No. 28-1 at 2–3. Plaintiff’s examination is
21 scheduled for June 14, 2022 and the raw data will not be available until after the exam.
22 ECF No. 29 at 2. Thus, the parties seek an order from the Court extending the expert report
23 deadlines, and consequently the remaining case management deadlines, by approximately
24 45 days. ECF No. 28.

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1 The Court appreciates the parties' thorough motion and declarations, and finds good
2 cause to **GRANT**¹ the motion. ECF No. 28. The Court **ORDERS** the following:

3 1. By **August 18, 2022**, each party shall comply with the disclosure provisions
4 in Rule 26(a)(2)(A) and (B) of the Federal Rules of Civil Procedure. This disclosure
5 requirement applies to all persons retained or specially employed to provide expert
6 testimony, or whose duties as an employee of the party regularly involve the giving of
7 expert testimony. **Except as provided in the paragraph below, any party that fails to**
8 **make these disclosures shall not, absent substantial justification, be permitted to use**
9 **evidence or testimony not disclosed at any hearing or at the time of trial. In addition,**
10 **the Court may impose sanctions as permitted by Fed. R. Civ. P. 37(c).**

11 2. Any party shall supplement its disclosure regarding contradictory or rebuttal
12 evidence under Fed. R. Civ. P. 26(a)(2)(D) by **September 15, 2022**.

13 3. All expert discovery shall be completed by all parties by **October 13, 2022**.
14 The parties shall comply with the same procedures set forth in the paragraph governing
15 fact discovery.

16 4. Failure to comply with this section or any other discovery order of the court
17 may result in the sanctions provided for in Fed. R. Civ. P. 37, including a prohibition on
18 the introduction of experts or other designated matters in evidence.

19 5. All other pretrial motions must be filed by **November 10, 2022**. Counsel must
20 obtain a motion hearing date from the law clerk of the judge who will hear the motion. The
21 period of time between the date you request a motion date and the hearing date may vary
22 from one district judge to another. Please plan accordingly. Failure to make a timely request
23 for a motion date may result in the motion not being heard. Motions in limine are to be
24 filed as directed in the Local Rules, or as otherwise set by the district judge.

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27 ¹ The Court has adopted most of the dates submitted by the parties; however, in light of the
28 additional information submitted (ECF No. 29), and due to conflicts on the Court's
calendar, certain dates have been modified.

1 6. A Mandatory Settlement Conference shall be conducted on **January 17, 2023**
2 at **2:00 p.m.** in the chambers of **Magistrate Judge Allison H. Goddard**. Plaintiff must
3 serve on Defendant a **written** settlement proposal, which must include a specific demand
4 amount, no later than **December 29, 2022**. The defendant must respond to the plaintiff **in**
5 **writing** with a specific offer amount prior to the Meet and Confer discussion. The parties
6 should not file or otherwise copy the Court on these exchanges. Rather, the parties must
7 include their written settlement proposals in their respective Settlement Conference
8 Statements to the Court. Counsel for the parties must meet and confer in person, by
9 videoconference, or by phone no later than **January 5, 2023**. Each party must prepare a
10 Settlement Conference Statement, which will be served on opposing counsel and lodged
11 with the Court no later than **January 11, 2023**. The Statement must be lodged in .pdf
12 format via email to efile_goddard@casd.uscourts.gov (not filed). The substance of the
13 Settlement Conference Statement must comply fully with Judge Goddard's Mandatory
14 Settlement Conference Rules (located on the court website at
15 [https://www.casd.uscourts.gov/Judges/goddard/docs/Goddard%20Mandatory%20Settlement](https://www.casd.uscourts.gov/Judges/goddard/docs/Goddard%20Mandatory%20Settlement%20Conference%20Rules.pdf)
16 [ent%20Conference%20Rules.pdf](https://www.casd.uscourts.gov/Judges/goddard/docs/Goddard%20Mandatory%20Settlement%20Conference%20Rules.pdf)). Each party may also prepare an **optional** Confidential
17 Settlement Letter for the Court's review only, to be lodged with the Court no later than
18 **January 11, 2023**. The Letter must be lodged in .pdf format via email to
19 efile_goddard@casd.uscourts.gov (not filed). Should a party choose to prepare a Letter,
20 the substance of the Settlement Conference Letter must comply fully with Judge Goddard's
21 Mandatory Settlement Conference Rules. **All parties are ordered to read and to fully**
22 **comply with the Chambers Rules and Mandatory Settlement Conference Rules of**
23 **Magistrate Judge Allison H. Goddard.**

24 7. In jury trial cases before Judge Hayes, neither party is required to file
25 Memoranda of Contentions of Fact and Law.

26 8. Counsel shall comply with the pre-trial disclosure requirements of Fed. R.
27 Civ. P. 26(a)(3) by **February 17, 2023**. Failure to comply with these disclosure
28 requirements could result in evidence preclusion or other sanctions under Fed. R.

1 Civ. P. 37.

2 9. Counsel shall meet and take the action required by Local Rule 16.1(f)(4) by
3 **February 24, 2023**. At this meeting, the parties shall discuss and attempt to enter into
4 stipulations and agreements resulting in simplification of the triable issues. The parties
5 shall exchange copies and/or display all exhibits other than those to be used for
6 impeachment. The exhibits shall be prepared in accordance with Local Rule 16.1(f)(4)(c).
7 Counsel shall note any objections they have to any other parties' Pretrial Disclosures under
8 Fed. R. Civ. P. 26(a)(3). Counsel shall cooperate in the preparation of the proposed pretrial
9 conference order.

10 10. Counsel for plaintiff will be responsible for preparing the pretrial order and
11 arranging the meetings of counsel pursuant to Civil Local Rule 16.1(f). By **March 3, 2023**,
12 plaintiff must provide opposing counsel with the proposed pretrial order for review and
13 approval. Opposing counsel must communicate promptly with plaintiff's attorney
14 concerning any objections to form or content of the pretrial order, and both parties shall
15 attempt promptly to resolve their differences, if any, concerning the order.

16 11. The Proposed Final Pretrial Conference Order, including objections to any
17 other parties' Fed. R. Civ. P. 26(a)(3) Pretrial Disclosures shall be prepared, served and
18 lodged with the assigned district judge by **March 10, 2023**, and shall be in the form
19 prescribed in and comply with Local Rule 16.1(f)(6).

20 12. The final Pretrial Conference is scheduled on the calendar of the **Honorable**
21 **William Q. Hayes** on **March 17, 2023** at **11:00 a.m.**

22 13. The parties must review the chambers' rules for the assigned district judge
23 and magistrate judge.

24 14. A post trial settlement conference before a magistrate judge may be held
25 within 30 days of verdict in the case.

26 15. The dates and times set forth herein will not be modified except for good cause
27 shown.

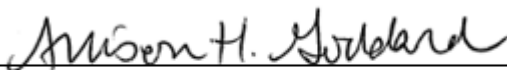
28 16. Briefs or memoranda in support of or in opposition to any pending motion

1 shall not exceed twenty-five (25) pages in length without leave of a district court judge.
2 No reply memorandum shall exceed ten (10) pages without leave of a district court judge.
3 Briefs and memoranda exceeding ten (10) pages in length shall have a table of contents
4 and a table of authorities cited.

5 17. Plaintiff shall serve a copy of this order on all parties that enter this case
6 hereafter.

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8 **IT IS SO ORDERED.**

9 Dated: June 10, 2022

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12 Honorable Allison H. Goddard
13 United States Magistrate Judge
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