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 15 HOMESITE INSURANCE COMPANY  
 16 as subrogee of Traci Marx and Raymond Marx

17 **UNITED STATES DISTRICT COURT**  
 18 **DISTRICT OF NEVADA**

19 HOMESITE INSURANCE COMPANY )  
 20 as subrogee of Traci Marx and Raymond )  
 21 Marx, )  
 22 Plaintiff, )

23 v. )

24 NORCOLD, INC., NORCOLD, LLC, )  
 25 THETFORD CORPORATION, THETFORD, )  
 26 LLC, CAMPING WORLD OF )  
 27 HENDERSON, CAMPING WORLD, INC., )  
 28 CWI, Inc. and DOES 1 through 50, Inclusive, )  
 Defendants. )

TRACI MARX, RAY MARX, ALYSSA )  
 DILLARD and SETH DILLARD, )

v. )

NORCOLD, INC., NORCOLD, LLC, )  
 THETFORD CORPORATION, THETFORD )  
 LLC, THE DYSON-KISSNER-MORAN )  
 CORPORATION, CAMPING WORLD )  
 HOLDINGS, INC., CAMPING WORLD, )  
 INC., CWI, INC., CAMPING WORLD OF )  
 HENDERSON, and DOES 1 to 50, inclusive, )  
 and ROE ENTITIES 1 to 50, )  
 inclusive )

Case No.: 2:21-cv-02167-RFB-DJA  
 (Consolidated with Case No. 2:22-cv-00085-  
 JCM-EJY)

**STIPULATION AND ORDER TO  
 EXTEND DISCOVERY DEADLINES  
 (Third Request)**

1 Pursuant to LR 6-1 and LR 26-3, the undersigned parties in the consolidated cases, by  
2 and through their respective counsel of record, hereby stipulate and respectfully request that this  
3 Court further extend the current fact discovery cutoff date in the above-captioned cases as  
4 outlined below. This request does not contemplate any other future deadline contemplated by the  
5 Discovery Plan and Scheduling Order currently in place. In support of this Stipulation and  
6 Request, the parties state as follows:

7 **Procedural History of the Cases**

8 1. On November 5, 2021, Plaintiff Homesite Insurance Company filed its Complaint  
9 against Norcold, Inc., Thetford Corp., Camping World, Inc. and Camping World of Henderson in  
10 the Clark County District Court of the State of Nevada (hereinafter “the Homesite Action”).

11 2. On December 8, 2021, the Court granted Camping World of Henderson’s  
12 and Camping World, Inc.’s Petition for Removal of the Homesite Action to the United States  
13 District Court for the District of Nevada. On December 15, 2021, the named defendants in the  
14 Homesite Action filed their Answers to the Complaint under Case No. 2:21-cv-02167-RFB-DJA.

15 3. On December 14, 2021, Plaintiffs Traci Marx, Raymond Marx, Alyssa Dillard and  
16 Seth Dillard (“Marx/Dillard Plaintiffs”) filed their Complaint against Norcold, Inc., Thetford  
17 Corp., The Dyson-Kissner-Moran Corporation (“DKM”), Camping World Holdings, Inc.,  
18 Camping World, Inc., CWI, Inc., and Camping World of Henderson (collectively “Camping  
19 World Defendants”), in the Clark County District Court of the State of Nevada (hereinafter the  
20 “Marx Action”).

21 4. On January 18, 2022, in the Marx Action, the Court granted Norcold, Thetford, and  
22 DKM’s Petition for Removal to the United States District Court for the District of Nevada.  
23 Norcold, Thetford, DKM, and the Camping World Defendants filed their Answers to the  
24 Complaint in the Marx Action on January 25, 2022 and January 28, 2022 respectively under  
25 Case No. 2:22-cv-00085-JCM-EJY.

26 5. On February 2, 2022, Plaintiffs in the Marx Action filed a Motion to Remand which  
27 is currently pending.  
28

1           6. On February 10, 2022, Plaintiff in the Homesite Action filed a Notice of Related Case  
2 regarding the Marx Action.

3           7. On February 16, 2022, the parties filed their Amended Joint Rule 26(f) Status Report  
4 and Discovery Plan in the Homesite Action. Plaintiff and Defendants in the Homesite Action  
5 served their Initial Document and Witness Disclosures.

6           8. On February 24, 2022, Norcold, Thetford, and DKM filed an Amended Proposed  
7 Discovery Plan on behalf of the parties in the Marx Action

8           9. On March 14, 2022, a hearing was held before the Honorable Elayna J. Youchah in  
9 the Marx Action regarding the parties' Amended Proposed Discovery Plan. The Court went  
10 through various areas of dispute between the parties, and established the initial scope of  
11 discovery in the Marx Action. On May 18, 2022, the Court ordered that the Marx Action, Case  
12 No. 2:22-cv00085-JCM-EJY, be consolidated under the Homesite Action, Case No. 2:21-cv-  
13 02167-RFB-DJA.

14           10. All parties engaged in written discovery. The parties met and conferred on the terms  
15 of a protective order requested by Defendants; however, despite their best efforts, they were  
16 unable to agree on the terms of the protective order. Plaintiffs filed a Joint Motion for Protective  
17 Order, to which Norcold, Thetford and DKM filed their Response with alternative proposed  
18 protective order (such Response being joined by the Camping World Defendants).

19           11. On July 26, 2022, Norcold filed a Motion to Compel Discovery Responses from the  
20 Marx/Dillard Plaintiffs in the consolidated action. On July 26, 2022, Norcold also filed a Motion  
21 to Deem Requests for Admission Admitted in the Marx Action.

22           12. On October 13, 2022, the Court granted Plaintiff Homesite's motion to amend its  
23 Complaint to name CWI, Inc. as a defendant in the Homesite Action.

24           13. On October 20, 2022, the parties in the consolidated actions submitted a letter  
25 requesting a status conference pursuant to Local Rule 16-2.

26           14. On October 28, 2022, Plaintiff Homesite Insurance Company filed its First Amended  
27 Complaint, adding CWI, Inc. as a party.  
28

1           15. On October 28, 2022, all Defendants filed their answers to the Homesite Plaintiff's  
2 First Amended Complaint.

3           16. On November 8, 2022, the parties filed a Joint Stipulation for Extension of Time,  
4 which was granted by the Court on November 9, 2022.

5           17. On December 19, 2022, the Court held a hearing on Norcold's Motion to Compel  
6 Discovery Responses from Plaintiffs and Motion to Deem Requests for Admission Admitted in  
7 the Marx Action. The Court ordered that the plaintiffs file an amended complaint naming  
8 Norcold LLC and Thetford LLC as defendants in the action and that plaintiffs file responses to  
9 Norcold LLC's discovery requests. The Court denied Norcold's motion to deem requests for  
10 admission admitted.

11           18. On January 17, 2023, Marx/Dillard Plaintiffs filed their First Amended Complaint  
12 naming additional Camping World Defendants and Norcold LLC and Thetford LLC as  
13 defendants. On January 31, 2023, all Defendants filed their answers to Marx/Dillard Plaintiffs'  
14 First Amended Complaint.

15           19. On February 8, 2023, and thereafter, Marx/Dillard Plaintiffs filed their responses to  
16 Norcold LLC's discovery requests.

17           20. On February 28, 2023, Plaintiff Homesite Insurance Company filed its Unopposed  
18 Stipulation to File Second Amended Complaint to add Norcold LLC and Thetford LLC as  
19 defendants to its action. On March 2, 2023, Plaintiff Homesite Insurance Company's Second  
20 Amended Complaint was deemed filed by the Court.

21           21. On March 2, 2023, Plaintiff Homesite Insurance Company filed a Motion for Leave  
22 to File a Third Amended Complaint to add DKM after meet and confer with Defendants Norcold  
23 and Thetford where said defendants advised that they opposed Plaintiff's request to amend the  
24 complaint to add DKM as a defendant.

25           22. On March 10, 2023, Plaintiff Homesite served an Amended Rule 30(b)(6) Notice of  
26 Deposition of Norcold, Inc. (currently known as Norcold LLC.)  
27

28           23. On March 13, 2023, Plaintiff Homesite Insurance Company and the Marx/Dillard

1 Plaintiffs filed their Joint Motion for Protective Order.

2 24. On March 16, 2023, Defendants Norcold LLC and Thetford LLC filed their answers  
3 to Plaintiff Homesite Insurance Company's Second Amended Complaint.

4 25. On March 16, 2023, Defendants Norcold LLC and Thetford LLC filed their response  
5 in opposition to Plaintiff Homesite Insurance Company's Motion for Leave to File its Third  
6 Amended Complaint to add DKM.

7 26. On March 20, 2023, Plaintiffs Marx/Dillard and Homesite Insurance Company served  
8 joint notices of deposition pursuant to FRCP 30(b)(6) on Norcold, Inc. and on CWI, Inc.

9 27. On March 21, 2023, named defendants Camping World of Henderson, Camping  
10 World, Inc. and CWI, Inc. filed their Joint and Separate Answer and Affirmative Defenses to  
11 Plaintiff's Second Amended Complaint.

12 28. On or around March 20, 2023, the Marx/Dillard Plaintiffs filed their Notice of Intent  
13 to Serve Subpoena on Non-Parties to Testify at Deposition of Christopher Justin Hillenbrand.

14 29. On March 21, 2023, Plaintiffs Marx/Dillard and Homesite served joint notices of  
15 deposition pursuant to FRCP 30(b)(6) on Thetford LLC and DKM.

16 30. On March 22, 2023, Defendant Norcold served a notice of deposition of Plaintiffs  
17 Alyssa Dillard, Seth Dillard, Traci Marx, and Ray Marx.

18 31. On March 22, 2023, Marx/Dillard Plaintiffs served amended and/or supplemental  
19 responses to the Camping World entities' written discovery requests, including interrogatories,  
20 requests for admission and requests for production.

21 32. On March 23, 2023, Plaintiff Homesite Insurance Company filed its response in  
22 reply to Defendants' opposition to its Motion for Leave to File its Third Amended Complaint.

23 33. On March 27, 2023, Defendants Norcold LLC, Thetford LLC, and DKM filed their  
24 response in opposition to Plaintiffs' Joint Motion for Protective Order.

25 34. On March 28, 2023, Defendants Norcold LLC and Thetford LLC filed their Motion  
26 to Quash and for a Protective Order Preventing the Apex Deposition of Christopher Justin  
27 Hillenbrand.  
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1 35. On March 29, 2023, the Court issued a minute order that Defendants' Motion to  
2 Quash and for a Protective Order did not satisfy the meet and confer requirements of the Local  
3 Rules and ordered that the parties meet and confer pursuant to Local Rule IA 1-3(f).

4 36. On March 31, 2023, counsel for Plaintiffs Marx/Dillard and Defendants Norcold and  
5 Thetford held a telephonic meet and confer regarding the deposition subpoena of Christopher  
6 Justin Hillenbrand. The parties were not able to resolve their discovery dispute. Defendants filed  
7 a declaration in support of their Motion to Quash and for Protective Order on March 31, 2023  
8 pursuant to the Court's minute order.

9 37. On April 4, 2023, the Parties filed a second Joint Stipulation to Extend Discovery  
10 Deadlines.

11 38. On April 6, 2023, the Court issued a minute order that the Joint Stipulation to Extend  
12 Discovery Deadlines sought to extend a deadline that had already passed (the deadline to amend  
13 pleadings or add parties) and did not cite excusable neglect as required under LR 26-3 and  
14 ordered the parties to file their stipulation citing excusable neglect on or before April 13, 2023.

15 39. The Parties filed their Amended Joint Stipulation to Extend Discovery Deadlines,  
16 removing the deadline to amend pleadings or add parties, on April 6, 2023. The Court granted  
17 the Amended Stipulation on April 7, 2023.

18 40. On April 11, 2023, Marx/Dillard Plaintiffs filed their response to Defendants Norcold  
19 LLC and Thetford LLCs' Motion to Quash and for a Protective Order Preventing the Apex  
20 Deposition of Christopher Justin Hillenbrand.

21 41. On April 18, 2023, Defendants Norcold LLC and Thetford LLC filed their reply to  
22 the Marx/Dillard Plaintiffs' response to their Motion to Quash and for a Protective Order  
23 Preventing the Apex Deposition of Christopher Justin Hillenbrand.

24 42. On June 15, 2023, the Court issued an order granting Plaintiff Homesite's Motion for  
25 Leave to File Amended Complaint, granting in part and denying in part Plaintiff Homesite's  
26 Joint Motion for Protective Order and granting Defendants Norcold LLC and Thetford LLC's  
27 Motion to Quash and for a Protective Order Preventing the Apex Deposition of Christopher  
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1 Justin Hillenbrand. The Court ordered the Stipulated Protective Order to be filed by July 14,  
2 2023.

3 43. On June 21, 2023, Plaintiff Homesite filed its Third Amended Complaint and  
4 Demand for Jury Trial, naming The Dyson-Kissner Moran Corporation (“DKM”) as a defendant.

5 44. On July 12, 2023, the Parties filed their Joint Stipulation for Protective Order.

6 45. On July 12, 2023, Defendant DKM filed its Motion to Dismiss Plaintiff Homesite’s  
7 Third Amended Complaint.

8 46. On July 18, 2023, the Court granted the Joint Stipulation for Protective Order.

9 47. On July 26, 2023, Plaintiff Homesite filed its response to Defendant DKM’s Motion  
10 to Dismiss Plaintiff Homesite’s Third Amended Complaint.

11 48. On July 27, 2023, the Marx/Dillard plaintiffs served notices of deposition for certain  
12 current employees and former employees/officers of defendants Norcold, LLC, Thetford, LLC  
13 and DKM – Mary Pouliot, John FitzSimons, Heather Ing and Keith Stickley.

14 49. On August 2, 2023, DKM filed its Reply in Support of Motion to Dismiss Plaintiff  
15 Homesite’s Third Amended Complaint Pursuant to FRCP 12(b)(6).  
16

17 **Discovery Remaining**

18 1. The parties continue participating in written discovery. Specifically, the parties are in  
19 the process of meeting and conferring regarding supplemental discovery responses in  
20 light of the Court’s entry of the protective order on July 18, 2023. The defendants  
21 have, to date, objected to written discovery on the grounds that a protective order had  
22 not yet been entered into the action. Now that the Court has entered a protective  
23 order, plaintiffs have requested that the defendants provide supplemental discovery  
24 responses to those discovery requests to which the protective order objection no  
25 longer applies. Determining the nature and extent of the supplemental responses is a  
26 necessary precondition to an evaluation of what discovery responses remain at issue;  
27 further meet and confer is necessary; and whether motion practice will be necessary.  
28 There are at least five (5) separate sets of written discovery at issue between the

1 parties. The defendants are working diligently to sort through their prior responses  
2 and determine what, if any, supplemental responses are necessary. This process is not  
3 complete as of the date of this motion.

4 2. Resolution of the issues regarding supplemental discovery responses to written  
5 discovery described above is a necessary precondition to plaintiffs' proceeding with  
6 depositions, particularly corporate representative depositions pursuant to FRCP  
7 30(b)(6). As of the date of this application, the parties anticipate potentially taking the  
8 following fact depositions:

- 9 • Ray Marx and Traci Marx;
- 10 • Alyssa Dillard and Seth Dillard;
- 11 • Nyda Dell Marx;
- 12 • Rule 30(b)(6) deposition of Homesite
- 13 • Mary Pouliot (Thetford, LLC employee);
- 14 • Heather Ing (Thetford, LLC employee);
- 15 • Keith Stickley (Norcold, LLC employee);
- 16 • John FitzSimons (former DKM/Thetford/Norcold officer);
- 17 • Rule 30(b)(6) depositions of Norcold Inc./Norcold LLC, Thetford  
18 Corp./Thetford LLC, and DKM;
- 19 • Rule 30(b)(6) deposition of CWI, Inc., Camping World of Henderson,  
20 Camping World, Inc.

21  
22 3. The parties may take the depositions of any and all other witnesses garnered through  
23 discovery.

24 4. The parties will disclose expert witnesses pursuant to Fed. R. Civ. P. 26.

25 5. The parties will take expert depositions.

26 **Why Remaining Discovery Has Not Yet Been Completed**

27 The parties aver, pursuant to Local Rule 26-3, that good cause exists for the following  
28 request for extension. This request for an extension of time is not sought for any improper



1 purpose or for the purpose of delay. Rather, it is sought by the parties for the purpose of allowing  
2 the parties sufficient time to conduct discovery and adequately prepare for trial. The parties seek  
3 additional time because the litigation outlined above continues to give rise to complex issues and  
4 disputes that the parties are attempting to resolve.

5         Currently, the parties are working together to evaluate the effect of the Court's entry of  
6 the protective order in this action on July 18<sup>th</sup>; the nature and extent of supplemental discovery  
7 response necessitated by the entry of the protective order; and the nature and extent of discovery  
8 still at issue. Despite meet and confer efforts, begun shortly after the entry of the protective  
9 order, the parties have not yet been able to resolve any of these issues, and it is clear that there is  
10 insufficient time remaining before the current fact discovery cut off date of August 28, 2023 to  
11 settle all of these issues and complete all of the depositions anticipated by the parties. For these  
12 reasons, the parties jointly seek court intervention to extend the fact discovery cut off date to  
13 January 8, 2023, contemporaneous with the current expert discovery cutoff.

14         In addition, there are motions that remain pending before the Court that are intertwined  
15 with the written discovery at issue between the parties, and/or the deposition discovery  
16 anticipated by the parties. The motions include the Marx/Dillard plaintiffs' motion to remand  
17 based on lack of diversity jurisdiction, and DKM's recently filed motion to dismiss Plaintiff  
18 Homesite's Third Amended Complaint, which Plaintiff Homesite opposes. Due to the pending  
19 issues and the areas of dispute set forth in the motions on file with the Court, the parties have not  
20 been able to proceed with pre-trial discovery and depositions at the rate they previously  
21 anticipated.

22         Accordingly, the parties request a further modification and extension of the current fact  
23 discovery deadline to allow for the opportunity to resolve the above referenced disputes with the  
24 assistance of the Court so that discovery and trial preparation can proceed smoothly for the  
25 benefit of all parties.  
26  
27  
28

**Extension of Modification of the Discovery Plan and Scheduling Order**

Local Rule 26-3 governs modifications or extension of the Discovery Plan and Scheduling Order. Any stipulation or motion to extend or modify that Discovery Plan and Scheduling Order must be made no later than twenty-one (21) days before the expiration of the subject deadline and must comply fully with LR 26-3.

This is the third request for extension of time in this matter. The parties respectfully submit that the reasons set forth above constitute compelling reasons for the extension.

The following is a list of the current discovery deadlines and parties' proposed extended deadlines:

<b>Scheduled Event</b>	<b>Current Deadline</b>	<b>New Deadline</b>
Fact Discovery Cut-off	Friday, <del>April 28</del> , 2023 August 28	Monday, January 8, 2024
Expert Disclosure pursuant to FRCP 26(a)(2)	Plaintiffs: Thursday, August 31, 2023 Defendants: Monday, October 30, 2023	No Change No Change
Simultaneous Rebuttal Expert Disclosure pursuant to FRCP 26(a)(2)	Monday, November 27, 2023	No Change
Expert Discovery Cut-off	Monday, January 8, 2024	No Change
Mediation Completion Date	Tuesday, February 13, 2024	No Change
Dispositive Motions	Tuesday, February 13, 2024	No Change
Joint Pretrial Order	To be set pursuant to LR 26-1 (both cases)	To be set pursuant to LR 26-1

1 WHEREFORE, the parties respectfully request that this Court extend the fact discovery  
2 deadline from the current deadline of August 28, 2023 up to and including January 8, 2024.

3  
4 Dated: August 7, 2023

**GROTEFELD HOFFMANN LLP**

5  
6 /s/ Lilla Shkolnikov  
7 LILLA SHKOLNIKOV  
8 Attorneys for Plaintiff  
9 Homesite Insurance Company

10  
11 Dated: August 7, 2023

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1 Dated: August 7, 2023

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20 *WORLD, INC. and CWI, Inc.*

21 Dated: August 7, 2023

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*CORPORATION*

**ORDER**

IT IS SO ORDERED that the parties' stipulation (ECF No. 105) is GRANTED.

Dated this 9th day of August, 2023,



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**UNITED STATES MAGISTRATE JUDGE**

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