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 Montenegro, NP, and Kate Purcell, RN*

10
 11 UNITED STATES DISTRICT COURT
 12 DISTRICT OF NEVADA

13 DAICHENA THOMAS, individually and as
 the personal representative of Estate of Palmer
 14 Pearce Joseph Wright; DANA THOMAS,
 individually; DEVONTAY THOMAS,
 15 individually; DELON ARMSTRONG,
 individually; JW, individually; GERMAINE
 16 CERMENA, individually,

Case No. 2:22-CV-0899-GMN-NJK

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

17 Plaintiffs,

18 vs.

19 CLARK COUNTY; LAS VEGAS
 METROPOLITAN POLICE DEPARTMENT;
 20 CLARK COUNTY DETENTION CENTER;
 WELLPATH, LLC; CORRECT CARE
 21 SOLUTIONS, LLC; J. MARCOS, RN; EARL
 D. SALVIEJO, NP; TANJA WASIELEWSKI,
 22 RN; H. TADDEO, RN; ACE T. RN; LARRY
 WILLIAMS, RN; H. HANNASH, RN;
 23 DAVID OLIPHANT, PA; LPN ALEXIA;
 BECKY S. CHRISTENSEN, RN; RAY
 24 MARTIN MONTENEGRO, NP; KATE
 PURCELL, RN; DOES I through C, inclusive,
 25 and ROE CORPORATIONS I though II,
 inclusive,

26 Defendants.
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1 IT IS HEREBY STIPULATED AND AGREED between the parties, Las Vegas
2 Metropolitan Police Department (“LVMPD”); Wellpath, LLC; Correct Care Solutions, LLC; J.
3 Marcos, RN; Earl D. Salviejo, NP; Tanja Wasielewski, RN; H. Taddeo, RN; Ace T. RN; Larry
4 Williamson, RN; H. Hannash, RN; David Oliphant, PA, LPN Alexia; Becky S. Christensen, RN;
5 Ray Martin Montenegro, NP, and Kate Purcell, RN’s (“Wellpath Defendants”); and Plaintiffs,
6 Daichena Thomas, Dana Thomas, Devontay Thomas, Delon Armstrong, JW, and Germaine
7 Carmena, (“Plaintiffs”), by and through their respective counsel that the discovery cut-off date of
8 October 10, 2023, be continued for a period of 90 days up to and including **January 8, 2024**, for
9 the purpose of allowing the parties to complete written discovery, obtain records from third-parties,
10 disclose expert and rebuttal expert reports, and take depositions.

11 The parties’ previous attempt (ECF No. 49) at extending unexpired deadlines in the
12 scheduling order was denied without prejudice based upon the following:

- 13 • The appointment of J.W.’s guardian ad litem had not been renewed despite a
14 misplaced representation that the appointment was pending;
- 15 • There was no explanation why “the volume of discovery, the need to review audio
16 recordings, and one party’s incarceration” warrant a three-month extension.

17 This stipulation addresses each of these reasons below.

18 **I. DISCOVERY COMPLETED TO DATE**

19 All parties have provided their initial Rule 26 Disclosures and produced supplemental
20 disclosures. LVMPD served written discovery (interrogatories, requests for production of
21 documents and requests for admissions) on Plaintiffs which responses and supplemental responses
22 were made. LVMPD served numerous third-party subpoenas. The parties have retained expert
23 witnesses. Wellpath Defendants have served the following written discovery on the Plaintiffs:

- 24 1. DEFENDANT KATE PURCELL, RN FIRST SET OF
25 INTERROGATORIES TO PLAINTIFF THE ESTATE OF PALMER
WRIGHT
- 26 2. DEFENDANT ALEXIA MAHONEY, LPN (LISTED INCOMPLETELY
27 AS LPN ALEXIA) FIRST SET OF INTERROGATORIES TO PLAINTIFF
THE ESTATE OF PALMER WRIGHT

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- 3. DEFENDANT BECKY S. CHRISTENSEN, RN FIRST SET OF INTERROGATORIES TO PLAINTIFF THE ESTATE OF PALMER WRIGHT
- 4. DEFENDANT DAVID OLIPHANT, PA FIRST SET OF INTERROGATORIES TO PLAINTIFF THE ESTATE OF PALMER WRIGHT
- 5. DEFENDANT EARL D. SALVIEJO, NP FIRST SET OF INTERROGATORIES TO PLAINTIFF THE ESTATE OF PALMER WRIGHT
- 6. DEFENDANT HEATHER HANASH, RN (LISTED INCORRECTLY AS H. HANNASH, RN) FIRST SET OF INTERROGATORIES TO PLAINTIFF THE ESTATE OF PALMER WRIGHT
- 7. DEFENDANT HORACE TADEO FIRST SET OF INTERROGATORIES TO PLAINTIFF THE ESTATE OF PALMER WRIGHT
- 8. DEFENDANT JAY MARCOS FIRST SET OF INTERROGATORIES TO PLAINTIFF THE ESTATE OF PALMER WRIGHT
- 9. DEFENDANT LARRY WILLIAMSON FIRST SET OF INTERROGATORIES TO PLAINTIFF THE ESTATE OF PALMER WRIGHT
- 10. DEFENDANT RAY MONTENEGRO FIRST SET OF INTERROGATORIES TO PLAINTIFF THE ESTATE OF PALMER WRIGHT
- 11. DEFENDANT WELLPATH, LLC FIRST SET OF INTERROGATORIES TO PLAINTIFF DAICHENA THOMAS AS REPRESENTATIVE OF THE ESTATE OF PALMER PEARCE JOSEPH WRIGHT
- 12. DEFENDANT WELLPATH, LLC FIRST SET OF INTERROGATORIES TO PLAINTIFF J.W.
- 13. DEFENDANT WELLPATH, LLC FIRST SET OF INTERROGATORIES TO PLAINTIFF DANA THOMAS
- 14. DEFENDANT WELLPATH, LLC FIRST SET OF INTERROGATORIES TO PLAINTIFF DELON ARMSTRONG
- 15. DEFENDANT WELLPATH, LLC FIRST SET OF INTERROGATORIES TO PLAINTIFF DEVONTAY THOMAS
- 16. DEFENDANT WELLPATH, LLC FIRST SET OF INTERROGATORIES TO PLAINTIFF GERMAINE CARMENA
- 17. DEFENDANT WELLPATH, LLC FIRST SET OF INTERROGATORIES TO PLAINTIFF DAICHENA THOMAS, INDIVIDUALLY
- 18. DEFENDANT WELLPATH, LLC FIRST SET OF REQUESTS FOR ADMISSION TO PLAINTIFF DAICHENA THOMAS, INDIVIDUALLY
- 19. DEFENDANT WELLPATH, LLC FIRST SET OF REQUESTS FOR ADMISSION TO PLAINTIFF DANA THOMAS
- 20. DEFENDANT WELLPATH, LLC FIRST SET OF REQUESTS FOR ADMISSION TO PLAINTIFF DELON ARMSTRONG
- 21. DEFENDANT WELLPATH, LLC FIRST SET OF REQUESTS FOR ADMISSION TO PLAINTIFF DEVONTAY THOMAS
- 22. DEFENDANT WELLPATH, LLC FIRST SET OF REQUESTS FOR ADMISSION TO DAICHENA THOMAS AS REPRESENTATIVE OF THE ESTATE OF PALMER PEARCE JOSEPH WRIGHT

- 1 23. DEFENDANT WELLPATH, LLC FIRST SET OF REQUESTS FOR
- 2 ADMISION TO PLAINTIFF GERMAINE CARMENA
- 3 24. DEFENDANT WELLPATH, LLC FIRST SET OF REQUESTS FOR
- 4 ADMISION TO PLAINTIFF J.W.
- 5 25. DEFENDANT WELLPATH, LLC FIRST SET OF REQUESTS FOR
- 6 PRODUCTION OF DOCUMENTS TO PLAINTIFF DAICHENA
- 7 THOMAS, INDIVIDUALLY
- 8 26. DEFENDANT WELLPATH, LLC FIRST SET OF REQUESTS FOR
- 9 PRODUCTION OF DOCUMENTS TO PLAINTIFF DANA THOMAS
- 10 27. DEFENDANT WELLPATH, LLC FIRST SET OF REQUESTS FOR
- 11 ADMISION TO PLAINTIFF DELON ARMSTRONG
- 12 28. DEFENDANT WELLPATH, LLC FIRST SET OF REQUESTS FOR
- 13 PRODUCTION OF DOCUMENTS TO PLAINTIFF DEVONTAY
- 14 THOMAS
- 15 29. DEFENDANT WELLPATH, LLC FIRST SET OF REQUESTS FOR
- 16 PRODUCTION OF DOCUMENTS TO PLAINTIFF DAICHENA
- 17 THOMAS AS REPRESENTATIVE OF THE ESTATE OF PALMER
- 18 PEARCE JOSEPH WRIGHT
- 19 30. DEFENDANT WELLPATH, LLC FIRST SET OF REQUESTS FOR
- 20 PRODUCTION OF DOCUMENTS TO PLAINTIFF GERMAINE
- 21 CARMENA
- 22 31. DEFENDANT WELLPATH, LLC FIRST SET OF REQUESTS FOR
- 23 PRODUCTION OF DOCUMENTS TO PLAINTIFF J.W.

24 The plaintiffs have served responses to the majority of the above written discovery and the parties
25 are working on the remaining responses.

26 Defendants have deposed four of the six Plaintiffs between June 6 and June 27, 2023, and
27 two have been scheduled and then rescheduled.

28 On June 28, 2023, the Las Vegas Metropolitan Police Department disclosed 20 recordings
with a cumulative length of approximately 3.5 hours of telephone calls the decedent made while he
was incarcerated in the Clark County Detention Center.

The parties also deposed witness Zina Essix on June 28, 2023 and again on July 19, 2023.
Ms. Essix had several recorded phone conversations with the decedent while he was detained at
CCDC just prior to his death. A third setting for the completion of Ms. Essix’s deposition has been
noticed for August 15, 2023.

Wellpath Defendants have noticed the deposition of Felicia Trimble, another fact witness
who conversed with the decedent while he was detained at CCDC just prior to his death, for August

1 21, 2023. Conflicts have since been discovered with this date for at least two of the parties, and the
2 parties are working together to reschedule this deposition for a later date.

3 On July 7, 2023, Wellpath, LLC served third-party subpoenas to obtain work and personnel
4 records of Palmer Pearce Wright (“Wright”). Responses are due on July 28, 2023. Both companies
5 have responded formally or informally to date that they have no records of Wright. One of the
6 companies – Republic Services – was identified in written discovery responses by Plaintiff Dana
7 Wright and confirmed at her deposition as a prior employer. Other Plaintiffs who were family
8 members recalled in their depositions held in June 2023 Wright worked for a trash collection type
9 company but did not recall specifics. Further discovery will be required to discover if there was an
10 trash collection service who was not Republic Services who may have been Wright’s employer.

11 **II. DISCOVERY YET TO BE COMPLETED**

12 Critically, the parties will need to disclose initial expert and rebuttal expert witnesses. In
13 providing their expert opinions, the experts will need information gathered in discovery that has not
14 yet been completed. This discovery includes:

- 15 • Receipt of documents in response to subpoenas to obtain work and personnel records
16 Wright.
- 17 • Additional subpoena(s) to other trash collection services for work and personnel
18 records of Wright.
- 19 • A transcript of Zina Essix’s complete deposition.
- 20 • A transcript of the deposition of Felicia Trimble.
- 21 • A transcript of the deposition of minor Plaintiff J.W.
- 22 • A transcript of the deposition of Plaintiff Delon Armstrong, which is pending and
23 has been delayed due to his incarceration.

24 Once experts have disclosed their reports, the parties will need to disclose rebuttal reports
25 and depose experts. The parties will likely also need to propound and respond to additional written
26 discovery based upon the testimonies provided by the witnesses and experts and based upon
27 information obtained through subpoenas to decedent’s employer(s) and medical providers.

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1 **III. REASONS WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED**

2 The parties have been diligent in proceeding with discovery in this matter. The claims in this
3 matter involve the death of a former Clark County Detention Center (“CCDC”) detainee, Wright.
4 Many of the issues pertain to the medical care of Wright prior to his arrest, during his detention at
5 CCDC, and prior to his death. The information surrounding these issues is extensive. Moreover,
6 there are six Plaintiffs and numerous Defendants. Wellpath and 11 individual defendants served
7 written discovery on each of the six individual Plaintiffs, which totaled over 30 written discovery
8 documents. The parties agreed to extensions and most of these have now been responded to. Despite
9 diligently conducting extensive discovery, the parties are quickly approaching an expert witness
10 deadline of **August 11, 2023**. ECF No. 21. This deadline will not allow the parties’ experts enough
11 time to provide comprehensive opinions because not all of the relevant discovery will be completed.

12 In their previous stipulation which the Court denied, the parties failed to clearly outline how
13 “the volume of discovery, the need to review audio recordings, and one party’s incarceration”
14 directly affects the ability of experts to form an opinion before the deadline of August 11, 2023.
15 Most critically, the audio recordings between decedent and Ms. Essix and Ms. Trimble need to be
16 fully explored before the experts can form an opinion. The 3.5 hours of recorded conversations
17 between Wright and two witnesses in the month leading up to his death provides critical information
18 about Wright’s health and treatment at CCDC—the central issue in this case. In the conversations,
19 Wright discusses the conditions in jail and his health. In addition, Wright also discusses his
20 relationship with the plaintiffs, his communication with them, and other relevant factors to the
21 litigation. These conversations, however, are difficult to understand given the recording quality of
22 the calls, language and idiomatic expressions of the witnesses and Wright, and missing context. But
23 once the witnesses have been deposed concerning the calls (and other facts) the parties’ experts will
24 have critical information to form their opinions.¹

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26 _____
27 ¹ Due to LVMPD Defendants’ inadvertence, the parties did not have the audio recordings until
28 shortly before the first deposition of Ms. Essix. Fortunately, the parties worked together
collegially to resolve this issue. As such, the parties agreed to continue the deposition—a
continuance which necessarily contributed to the delay for expert reports.

1 The experts will also need to review the other discovery that is in the process of being
2 collected via subpoenas, written discovery, and the deposition of two more parties—one of whom
3 is incarcerated. Scheduling the deposition of the incarcerated party has been challenging given the
4 scheduling of other parties’ depositions and because counsel must coordinate with the prison in
5 arranging a video conferencing deposition. The parties were also unable to obtain information on
6 Wright’s past employers until the conclusion of Plaintiffs’ June 2023 depositions, and even that
7 information appears incomplete. Once defendants receive information subpoenaed from Wright’s
8 previous employers, they may need to retain a damages expert.

9 Thus, three months is needed so there is time for: (1) the parties to collect the remaining
10 relevant information for the experts, (2) the defendants to determine whether a damages expert(s)
11 will need to be retained based on the subpoenaed (but currently undisclosed) work history, (3)
12 experts to review and prepare their reports, (4) experts to prepare rebuttal reports if necessary, (5)
13 the parties to depose experts, (6) and the parties to prepare additional written discovery as needed,
14 including potential discovery into issues raised by experts and other witnesses. With a three month
15 extension, the parties expect that the experts and/or rebuttal experts will have everything they need
16 to form their opinions based on all the relevant evidence in the case and to be able to explain their
17 opinions in depositions.

18 Finally, Plaintiffs are in the process of moving to appoint a guardian ad litem for J.W. The
19 parties should have indicated in their previous stipulation that Plaintiffs were in the process of
20 moving for the appointment rather than the appointment was “pending.” *See* ECF No. 50. It is clear
21 from the record that a motion to appointment of a guardian ad litem is not “pending.”
22

23 In sum, despite their diligence, the parties cannot complete the discovery necessary in this
24 case within the current timelines and the parties all agree to the extension of time detailed below.

25 **IV. PROPOSED EXTENDED DEADLINES**

26 The parties respectfully request this Court enter an order as follows:

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1 **(A) Discovery Deadline.**

2 The current discovery cut-off date of October 10, 2023, should be extended for a period of
3 90 days, up to and including **January 8, 2024.**

4 **(B) Experts and Rebuttal Experts.**

5 The parties shall disclose expert reports on or before November 9, 2023, which is 60 days
6 prior to the close of discovery.

7 Any rebuttal disclosures will be made by the parties on or before December 11, 2023, which
8 is 30 days prior to the close of discovery.

9 **(C) Dispositive Motions.**

10 All pretrial motions, including but not limited to, discovery motions, motions to dismiss,
11 motions for summary judgment, and all other dispositive motions shall be filed and served no later
12 than 30 days after the close of discovery, or by **February 7, 2024.**

13 **(D) Motions in Limine/*Daubert* Motions.**

14 Under LR 16-3(b), any motions in limine, including *Daubert* motions, shall be filed and
15 served 30 days prior to the commencement of Trial. Oppositions shall be filed and served and the
16 motion submitted for decision 14 days thereafter. Reply briefs will be allowed only with leave of
17 the Court.

18 **(E) Pretrial Order.**

19 Pursuant to LR 26(1)(e)(5), the Joint Pretrial Order shall be filed with this Court no later
20 than 30 days after the date set for filing dispositive motions, or by **March 8, 2024**, unless dispositive
21 motions are filed, in which case the date for filing the Joint Pretrial Order shall be suspended until
22 30 days after the decision on the dispositive motions or further order of this Court. The disclosures
23 required by Fed. R. Civ. P. 26(a)(3) and any objections shall be included in the final pretrial order.

24 **(F) Extensions or Modification of the Discovery Plan and Scheduling Order.**

25 In accordance with LR 26-3, applications to extend any date set by the discovery plan,
26 scheduling order, or other order must, in addition to satisfying the requirements of LR 6-1, be
27 supported by a showing of good cause for the extension. All motions or stipulations to extend a
28 deadline set forth in a discovery plan shall be received by the Court not later than 21 days before

1 the expiration of the subject deadline. A request made after the expiration of the subject deadline
2 shall not be granted unless the movant demonstrates that the failure to set was the result of excusable
3 neglect. Any motion or stipulation to extend a deadline or to reopen discovery shall include:

- 4 (a) A statement specifying the discovery completed;
- 5 (b) A specific description of the discovery that remains to be completed;
- 6 (c) The reasons why the deadline was not satisfied or the remaining discovery was
7 not completed within the time limits set by the discovery plan; and
- 8 (d) A proposed schedule for completing all discovery.

9 This request for an extension is made in good faith and joined by all the parties in this case.
10 The Request is timely pursuant to LR 26-3. Trial is not yet set in this matter and dispositive motions
11 have not yet been filed. Accordingly, this extension will not delay this case.

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