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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PATRICIA SOMERS, as trustee for the
Valesco Irrevocable Trust dated June 16, 2004,

Plaintiff,

v.

MIDLAND NATIONAL LIFE INSURANCE
COMPANY,

Defendant.

Case No. 2:22-cv-01904-APG-NJK

**ORDER TO
EXTEND REMAINING DEADLINES TO
FACILITATE A FEBRUARY 8, 2024
MEDIATION BEFORE FORMER
NEVADA SUPREME COURT JUSTICE
NANCY BECKER (ECF NO. 36)
(THIRD REQUEST)**

Pursuant to LR IA 6-1 and LR 26-4, Plaintiff and Defendant, by and through their undersigned counsel, hereby stipulate, contingent upon this Court's approval to extend the remaining discovery deadlines set forth in the Court's Scheduling Orders (ECF Nos. 35, 51).

Plaintiff and Defendant believe this extension is warranted pursuant LR 1-1(a-b), as they believe the result of granting the extension will reduce costs and result in the "just, speedy and inexpensive determination" of this matter. The Plaintiff and the Defendant have scheduled a mediation session before former Nevada Supreme Court Justice Nancy Becker for February 8, 2024 at 9 a.m. PST in furtherance of a global resolution of this matter. Additionally, Scott Kelley ("Scott") and Steven Kelley ("Steven" and together with Scott the "Kelleys"), two (2) of the parties Plaintiff has sought to add as defendants to this matter,¹ have agreed to participate in the February 8, 2024 mediation in an effort to achieve a global resolution of this dispute.²

Despite the Parties best efforts to obtain an expedited mediation date the week of January 15 or the week of January 22nd, the soonest Justice Becker could accommodate a full-day mediation was

¹ See Motion to Amend (ECF No. 36).

² Plaintiff and Defendant are in ongoing discussions with Donna Kelley ("Donna") regarding participation.

- d. Donna Kelley (set for January 19, 2024);
- e. Marc Robinson (set for January 31, 2024);
- f. Amanda Hohl (set for February 8, 2024);
- g. Kourtney Hines (set for February 9, 2024); and
- h. Janet Johnson (set for February 9, 2024).

5. It is the Parties intent to vacate the afore-mentioned depositions upon the Court's approval of this stipulation and order in an effort to avoid the substantial costs of completing the scheduled depositions.

6. Defendant may also elect to depose Plaintiff's expert.

7. Defendant must disclose its expert.

8. Plaintiff may need to depose Defendant's expert.

9. The Parties agree that the afore-mentioned list of depositions is not exhaustive and additional depositions may be needed.

C. The Reasons Why Specified Discovery Has Yet to Be Completed:

Pursuant to LR 26-3(c), the reasons why discovery is not yet completed and cannot be completed by the present deadline are as follows:

The Parties are requesting a 45-day extension of discovery to facilitate a mediation scheduled before Justice Becker on February 8, 2024 at 9:00 a.m. PST in furtherance of a global resolution of this matter, which will include not only Plaintiff and Defendant (the current parties to this action), but also the Kelleys, who have an incentive to participate in the mediation and reach global resolution or risk being named as defendants in this matter according to Plaintiff's Motion to Amend (ECF No. 36) that is currently pending before the Court.

As noted above, while the parties attempted to obtain an expedited mediation date, Justice Becker was not available to accommodate a full day mediation any earlier than February 8, 2024. As such, the Parties are requesting a 45-day extension of the deadlines to enable them to mediate this dispute before expending the additional substantial amounts necessary to complete nine depositions

1 that are to take place in January and early February of 2024 (names of deponents and dates recited
2 previously).

3 Considering (1) Justice Becker’s strong record of success in assisting parties resolve their
4 disputes, (2) the Kelleys agreement to participate in this mediation prior to being added as defendants
5 and (3) Plaintiff and the Defendant’s commitment to working towards a global resolution, the Parties
6 have a firm belief that extending the current deadlines will be followed by a resolution that will dispose
7 of this entire action and any future actions without the necessity of further litigation. The Parties
8 strongly believe that a 45-day extension of the deadlines will substantially increase the probability of
9 a resolution of this dispute by directing financial resources towards settlement rather than the
10 substantial costs of completing the scheduled depositions, completing pending motion practice, and
11 continuing expert disclosures and discovery.

12 **D. A Proposed Schedule for Completing All Remaining Discovery**

13 Pursuant to LR 26-3(d), the Parties propose to the following schedule to complete all remaining
14 discovery:

Discovery Event	Current Deadline	Extended Deadline
Defendant’s Expert Disclosure	January 23, 2024	March 8, 2024
Discovery Completion	February 23, 2024	April 8, 2024
Dispositive Motions	March 25, 2024	May 9, 2024

19 **E. Good Cause**

20 Pursuant to LR IA 6-1(a) and LR 26-3, good cause exists to extend the deadlines under the
21 Scheduling Order, as the parties have been diligently cooperating to exchange discovery while also
22 briefing the Plaintiff’s motion to amend her petition, navigating the holiday schedules of experts,
23 witnesses, and parties alike, and engaging in settlement discussions. Although the parties have worked
24 to complete discovery in the time previously allotted, the inability to schedule a mediation with Justice
25 Becker prior to February 8, 2024, and the desire to conserve financial resources so they can be directed
26 towards settlement, requires a final extension. This is the parties’ third and final request to extend the
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1 discovery deadlines in this matter, and this stipulation is submitted more than 21 days prior to the
2 close of discovery. This stipulation is not intended to cause undue delay.

3 **F. Status Check**

4 In the event the Court requires additional information related to the Parties' request, the Parties
5 would request an expedited status check to be set at the Court's convenience.

6 IT IS SO STIPULATED.

7 DATED this 5th day of January 2024.

DATED this 5th day of January 2024.

8 **HOLLEY DRIGGS**

LEE KIEFER & PARK, LLP

9
10 /s/ Paul F. Heaton

/s/ Matthew W. Park

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18 *Attorneys for Defendant Midland National Life*

19 *Insurance Company*

20
21 **ORDER**

22 The parties must file a joint status report regarding the results of mediation no later than
23 February 12, 2024.

24 **IT IS SO ORDERED.**

25 Dated: January 8, 2024

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UNITED STATES MAGISTRATE JUDGE