

THE HONORABLE JOHN C. COUGHENOUR

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

JAMES HEALY, on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

MILLIMAN, INC., d/b/a INTELLISCRIPIT,

Defendant.

Case No. 2:20-cv-01473-JCC

**STIPULATED MOTION TO EXTEND
TRIAL DATE AND RELATED DEADLINES**

NOTED FOR CONSIDERATION:
DECEMBER 14, 2023

Plaintiff James Healy and Defendant Milliman, Inc. jointly move this Court for entry of an order extending the trial date and related deadlines. Following oral argument on Plaintiff’s motion to modify the class definition and Defendant’s motion for summary judgment and for decertification of the inaccuracy class, the Court ordered supplemental briefing. All pending motions are now noted for January 26, 2024.

Given the current pretrial schedule, the parties would have to submit the pretrial order (currently due January 19), jury instructions (currently due January 19), motions in limine (January 25) and other materials before having the benefit of the Court’s decision on the pending motions. In addition, if one or both classes remain, the class administrator will need to send class notice, and class members will need the opportunity to opt out of the classes—the notices call for a 45-day opt-out period.

STIPULATED MOTION TO EXTEND TRIAL DATE AND
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Case No. 2:20-cv-01473-JCC

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1 Accordingly, the parties respectfully request to move the trial date and related
2 deadlines. In support of this request, the parties state as follows:

3 1. This is a certified class action. *See* Dkt. No. 126 (Order Granting in Part and
4 Denying in Part Plaintiff's Motion for Class Certification). The Court certified a Section 1681e(b)
5 Inaccuracy Class and a Section 1681i Failure to Properly Reinvestigate Class (collectively,
6 "Classes").

7 2. On May 12, 2023, the Court granted the parties' stipulated motion to extend the
8 case management deadlines and trial date to provide time for Milliman to produce "priority
9 code indicators" that the Court compelled it to produce. *See* Dkt. Nos. 161 & 162.

10 3. On July 21, the Court granted the parties' stipulated motion to extend the
11 deadlines for (1) the parties to complete discovery and expert work related to the priority code
12 data that the Court ordered Milliman to produce; (2) Plaintiff to move to modify the class
13 definition if necessary; and (3) the class action administrator to send notice.

14 4. On September 8, Plaintiff moved to modify the definition of the Inaccuracy Class,
15 with a noting date of September 29. *See* Dkt. No. 166. Milliman opposed the motion.

16 5. Milliman moved for partial summary judgment and decertification of the
17 Inaccuracy Class on September 21. *See* Dkt. No. 167. Plaintiff opposed the motion.

18 6. The Court extended the deadline to send class notice again on October 5. *See*
19 Dkt. No. 173.

20 7. Plaintiff moved for partial summary judgment on November 3. *See* Dkt. No. 185.
21 Milliman opposed the motion.

22 8. The Court heard oral argument on Plaintiff's motion to modify the definition of
23 the Inaccuracy Class (Dkt. No. 166) and Milliman's motion for partial summary judgment and
24 decertification of the Inaccuracy Class (Dkt. No. 167) on December 5. *See* Dkt. No. 197.

25 9. The Court has since ordered Plaintiff to provide supplemental briefing by January
26 5. Milliman's response is due January 19. Plaintiff's reply is due January 26. *See* Dkt. No. 197.

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1 10. The Court also directed the Clerk to re-note Plaintiff's motion to modify the
2 Inaccuracy Class definition (Dkt. No. 166), Milliman's motion for partial summary judgment and
3 decertification of the Inaccuracy Class (Dkt. No. 167), and Plaintiff's motion for partial summary
4 judgment (Dkt. No. 185) for January 26. See Dkt. No. 197.

5 11. Under the current Scheduling Order, the parties will need to comply with all trial-
6 related deadlines before, or just after, the January 26 noting date. The proposed pretrial order,
7 proposed jury instructions, and proposed verdict form trial briefs are due on January 19.
8 Motions in limine are due January 25. Trial briefs are due January 29. See Dkt. No. 161.

9 12. Moreover, notice to the certified classes has not gone out yet. Should one or
10 both classes remain following the Court's rulings on the pending motions, the class action
11 administrator will need 10 days to do the work needed to send notice. See Dkt. No. 173.

12 13. If notice goes out to one or both certified classes, class members will have 45
13 days to opt out. See Dkt. Nos. 141-1 to 141-5.

14 14. If one or both classes remain following the Court's rulings on motions noted for
15 January 26, trial cannot go forward until the classes receive notice and class members have had
16 the opportunity to opt out. As a result, the February 12 trial date is impractical.

17 15. Accordingly, the parties respectfully request that the Court enter the following
18 case schedule:

Event	Current Deadline	Proposed Deadline
Deadline for the parties to propose changes to class notice		10 days from order on pending motions
Administrator sends notice after performing reverse lookups for email addresses and performing an NCOA update		10 days from order on proposal to change class notice
Deadline to opt out of class		45 days from class notice mailing

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1	Deadline to file list of opt outs with Court		14 days from opt out deadline
2			
3	Deadline to file proposed pretrial order, proposed jury instructions, and proposed verdict form	January 19, 2024	30 days from deadline to file list of opt outs
4			
5			
6	Deadline to file motions in limine (to be filed in a single, joint brief)	January 25, 2024	7 days from deadline to file proposed pretrial order, proposed jury instructions, and proposed verdict form
7			
8	Deadline for trial briefs	January 29, 2024	5 days from deadline to file motions in limine
9			
10	Trial (ten days)	February 12, 2024 at (or at the court's convenience)	14 days from deadline to file trial briefs
11			

12
13 RESPECTFULLY SUBMITTED AND DATED this 14th day of December, 2023.

14
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STIPULATED MOTION TO EXTEND TRIAL DATE AND
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[PROPOSED] ORDER

IT IS SO ORDERED.

DATED this 14th day of December 2023.



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