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 13 NATIONWIDE MUTUAL FIRE INSURANCE COMPANY

14 **THE UNITED STATES DISTRICT COURT**  
 15 **EASTERN DISTRICT OF CALIFORNIA**

16 BRUCE KOPITAR, an individual  
 17 Plaintiff

18 vs.

19 NATIONWIDE MUTUAL FIRE  
 20 INSURANCE COMPANY  
 21 Defendant.

**CASE NO. 1:07-CV-00891-OWW-GSA**  
**STIPULATION AND ORDER**  
**AMENDING CASE SCHEDULE**

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 28 Defendant, Nationwide Mutual Insurance Company (“Nationwide”) and Plaintiff

1 Bruce Kopitar (“Plaintiff”), through their respective counsel of record, jointly submit the  
2 following Stipulation to continue the trial and pre-trial dates and deadlines set by the  
3 Court sixty (60) days. The Stipulation is made pursuant to Federal Rules of Civil  
4 Procedure 6(b) and 16(b)(4) and Eastern District Civil Local Rule 144.

5 **I. SYNOPSIS OF CASE**

6 Plaintiff, Bruce Kopitar (“Plaintiff”) alleges that he incurred a loss when a  
7 malfunction in a steam room at his home caused damage to his home; that the steam  
8 caused a large amount of moisture to permeate the house; and that there was a  
9 determination by a reclamation contractor that there was a substantial amount of mold in  
10 the residence. Plaintiff alleges that he had a policy of insurance with Allied Insurance, a  
11 member of Defendant Nationwide Mutual Insurance Company and that he was entitled to  
12 coverage under the policy for his loss. Defendant disputes whether the damage to the  
13 residence arose from a covered loss. Plaintiff also alleges that Defendant acted in bad  
14 faith.

15 On June 21, 2007, this case was removed from Tulare Superior Court to this court  
16 pursuant to 28 U.S.C. 1441(a), (b) and (c). Defendant, through its prior counsel, filed an  
17 answer on June 26, 2007.

18 Discovery

19 Plaintiff has served his first set of request for production of documents, request for  
20 admissions and two sets of special interrogatories on Defendant, to which Defendant has  
21 served responses. Defendant has served its first set of request for production of  
22 documents to Plaintiff, to which Plaintiff has served responses. Defendant has taken a  
23 portion of Plaintiff’s deposition but has not yet completed Plaintiff’s deposition.  
24 Discovery is ongoing.

25 Pending Motions

26 Nationwide filed a Motion for Sanctions for Spoliation of Evidence on September  
27 30, 2009. Plaintiff filed his opposition to this motion on November 20 2009 and  
28 Nationwide filed its reply brief on November 30, 2009. This motion was heard on  
December 7, 2009 and taken under submission. The outcome of this motion will

1 significantly affect the scope of issues in this case, as the motion involves whether  
2 Plaintiff's claims for mold damage will be dismissed.

3 **II. STIPULATION OF PARTIES TO CONTINUE THE TRIAL AND**  
4 **CORRESPONDING PRE-TRIAL DATES BASED ON GOOD CAUSE**

5 The parties stipulate and agree to a short continuance of the pre-trial and trial dates  
6 sixty (60) days for the following reasons: (1) Defendant's counsel is very new to the case,  
7 having recently being substituted in as counsel on December 14, 2009, and the  
8 continuance will allow Defendant's counsel sufficient time to familiarize itself with the  
9 case; (2) the continuance will allow the parties time to adjust their respective strategies  
10 after the Court rules on the still-pending motion re: spoliation of evidence, which will  
11 have a significant impact on the scope of issues in the case; and (3) Defendant's counsel  
12 requires more time to designate expert witnesses and prepare expert witness reports. The  
13 January 25, 2010 deadline to disclose expert witnesses and exchange expert witness  
14 report as fast approaching, and Defendant's counsel has not had sufficient time to prepare  
15 expert witness disclosures in the short time that it has been on the case.

16 The parties stipulate to a short continuance of the dates in order to allow for  
17 sufficient time for Defendant's new counsel to become familiar with the case and to  
18 prepare for all discovery. Without this short continuance of the dates, the parties will be  
19 prejudiced.

20 The parties have been complying with the current dates and deadlines set forth the  
21 Court's case schedule. To date, none of the cut-off dates have passed. A short  
22 continuance of the dates and deadlines would serve to avoid any potential fees and costs,  
23 as well as waste of judicial resources and time, filing potential motions after the cut-off  
24 dates for leave to amend the scheduling order. To this end, the parties stipulate and  
25 propose a 60-day continuance of the dates as follows:

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EVENT	CURRENT	NEW DATE/TIME
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	<b>DATE/TIME</b>		
1			
2	Disclosure of Expert Witnesses including exchange of reports	January 25, 2010	March 25, 2010
3			
4	Supplemental Expert Disclosure and Reports	February 18, 2010	March 18, 2010
5	Expert Discovery Cut Off	March 2, 2010	May 3, 2010
6	Non-Expert Discovery Cut Off	March 17, 2010	May 17, 2010
7	Non-Dispositive Motion Hearing Deadline	February 19, 2010	April 19, 2010
8	Dispositive Motion Hearing Deadline	May 24, 2010	July 26, 2010
9			
10	Settlement Conference	March 22, 2010, 10:30 a.m.	May 24, 2010, 10:30 a.m.
11	Pretrial Conference	June 28, 2010, 11:00 a.m. Courtroom 3	August 30, 2010, 11:00 a.m., Courtroom 3
12	Trial	August 3, 2010, 9:00 a.m. Courtroom 3	October 5, 2010, 9:00 a.m. Courtroom 3
13			

14 The Court has previously granted two extensions in this case, both upon filings of  
15 stipulations between Plaintiff's counsel and Defendant's prior counsel. First, on May 19,  
16 2008, the Court granted the parties' stipulation to continue the settlement conference and  
17 trial date, which necessitated rescheduling the deadlines in the Court's scheduling order,  
18 including discovery deadlines, the deadline to file dispositive motions, and the pretrial  
19 conference date. [Docket No. 15]. Second, on January 20, 2009, the Court issued an  
20 Order amending the case schedule by extending the dates listed above. [Docket No. 19].  
21 Defendant's current counsel has not previously requested an extension of any dates.  
22 Federal Rules of Civil Procedure 6(b), 16(a) and 16(b)(4) give the Court broad discretion  
23 to regulate pre-trial matters, to manage its calendar, grant continuance of scheduling  
24 dates, and to direct the parties in a manner that expedites disposition of the action and  
25 facilitates settlement.

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28 As set forth herein, and in light of the fact that there is a pending motion that will

1 significantly affect the issues in this case, good cause exists for the Court to grant the  
2 continuance under any of the Rules.

3  
4 IT IS SO STIPULATED.

5 Dated: January 6, 2010

**WILKINS, DROLSHAGEN &  
CZESHINSKI LLP**

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7  
8 /s/ JAMES H. WILKINS

9 James H. Wilkins  
10 Attorney for Plaintiff  
11 BRUCE KOPITAR

12 Dated: January 6, 2010

**HINES SMITH CARDER LEASURE  
DINCEL LLP**

13  
14  
15 /s/ MARC S. HINES

16 Marc S. Hines  
17 Christine M. Emanuelson  
18 Attorneys for Defendant  
19 NATIONWIDE MUTUAL FIRE INSURANCE  
20 COMPANY

**ORDER**

21 Based on the foregoing Stipulation and good cause appearing therefore,  
22 IT IS HEREBY ORDERED that the Case Schedule be, and the same  
23 hereby is, revised.

24 IT IS SO ORDERED.

25 Dated: January 7, 2010

/s/ OLIVER W. WANGER  
United States Senior District Judge