

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BRUCE AVANS,

Plaintiff,

V.

FOSTER WHEELER
CONSTRUCTION COMPANY, an
unknown business entity; FOSTER
WHEELER CONSTRUCTORS, INC., a
Delaware corporation; and DOES 1 to
100, inclusive.

Defendant.

Case No. 1:10-CV-00922-LJO-JLT

**ORDER GRANTING IN PART
AND DENYING IN PART
STIPULATION TO MODIFY
SCHEDULING ORDER**

(Doc.20)

On January 14, 2011, the parties filed a stipulation to extend certain dates outlined in the Scheduling Order. (Doc. 20) The parties assert that, despite their diligence in accomplishing discovery, they have been unable to complete the discovery due to the need to locate two witnesses who are former employees of Defendant and to depose several third-party witnesses. (Doc. 20 at 2) In addition, the parties indicate that they wish to pursue settlement and believe that their efforts in this regard will be more fruitful if they are not required to use resources in discovery that could be used to settle the case. *Id.* The Court finds that the inability

1 to locate important witnesses is good cause to modify the Scheduling Order,
2 however, delayed settlement efforts are not.

3 On the other hand, the dates proposed by the parties fail to allow non-
4 dispositive motions to be decided before the filing of dispositive motions. (Doc. 20 at
5 2-3) Thus, the Court will **GRANT IN PART and DENY IN PART** the stipulated
6 request to modify the Scheduling Order as follows:

7 (a) Non-expert discovery cut-off : April 8, 2011;
8 (b) Expert discovery cut-off: April 8, 2011;
9 (c) Joint expert disclosure: February 28, 2011;
10 (d) Rebuttal expert disclosure: March 14, 2011;
11 (e) Non-dispositive motion filing date: April 13, 2011; and
12 (f) Non-dispositive motion hearing date: May 13, 2011.

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14 IT IS SO ORDERED.
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16 Dated: January 18, 2011

17 /s/ Jennifer L. Thurston
18 UNITED STATES MAGISTRATE JUDGE
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