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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

NATIONWIDE AGRIBUSINESS
INSURANCE COMPANY,

Plaintiff,
v.

GERARDO ALANN FELIX
GARAY; MARY GARCIA ROJAS;
CYNTHIA ANN ROJAS;
CHRISTINA MONTECINO;
GABRIEL ROJAS; ANITA ROJAS,
individually and as Guardian ad
Litem for BRANNON JONAH
CLAYTON; and DOES 1 to 50,
inclusive,

Defendants.

MARY GARCIA ROJAS;
CYNTHIA ANN ROJAS;
CHRISTINA MONTECINO:

Case No. 1:14-CV-00138-AWI-JLT

**STIPULATION AND JOINT MOTION
FOR CONTINUANCE OF PRETRIAL
DATES AND DEADLINES WITHOUT
CONTINUING THE TRIAL DATE;
ORDER THEREON**

1 GABRIEL ROJAS; and ANITA
2 ROJAS,
3 Counterclaimants,
4 v.
5 NATIONWIDE AGRIBUSINESS
6 INSURANCE COMPANY,
7 Counterdefendant.

8 Plaintiff NATIONWIDE AGRIBUSINESS INSURANCE COMPANY
9 (“Nationwide”) and Defendants and Counterclaimants GERARDO ALANN
10 FELIX GARAY, MARY GARCIA ROJAS, CYNTHIA ANN ROJAS,
11 CHRISTINA MONTECINO, GABRIEL ROJAS, ANITA ROJAS and
12 BRANNON JONAH CLAYTON (“Defendants”) by and through their counsel of
13 record, hereby stipulate and move the Court to continue all pretrial dates and
14 deadlines in the Scheduling Order [**Doc. No. 25**] by approximately 90 days
15 without continuing the Pre-trial Conference date (10/7/15) or the Trial date
16 (12/1/15).

17 1. On May 19, 2014, the Court held a Scheduling Conference in this
18 case and issued an Order setting forth the following pretrial dates and deadlines:

- 19 • 12/01/14 – Rule 26 Expert Disclosure deadline
- 20 • 01/02/15 – Rule 26 Rebuttal Expert Disclosure deadline
- 21 • 01/05/15 – Non-expert discovery cutoff
- 22 • 02/02/15 – Expert discovery cutoff
- 23 • 02/09/15 – Non-dispositive motion filing deadline
- 24 • 03/09/15 – Non-dispositive motion hearing deadline
- 25 • 03/16/15 – Dispositive motion filing deadline
- 26 • 05/04/15 – Dispositive motion hearing deadline
- 27 • 10/07/15 – Pre-trial Conference
- 28 • 12/01/15 – Trial

1 2. By way of this Stipulation, the Parties hereby jointly request that the
2 Court continue all of the foregoing pretrial dates and deadlines as follows, without
3 continuing the dates set for the Pre-trial Conference or the Trial:

- 4 • 02/27/15 – Rule 26 Expert Disclosure deadline
- 5 • 03/27/15 – Rule 26 Rebuttal Expert Disclosure deadline
- 6 • 04/03/15 – Non-expert discovery cutoff
- 7 • 05/01/15 – Expert discovery cutoff
- 8 • 05/11/15 – Non-dispositive motion filing deadline
- 9 • 06/12/15 – Non-dispositive motion hearing deadline
- 10 • 06/16/15 – Dispositive motion filing deadline
- 11 • 08/07/15 – Dispositive motion hearing deadline

12 3. As set forth above the present discovery cut-off deadline in this case
13 is scheduled to occur nearly 11 months prior to the trial date.

14 4. To date, the Parties have diligently conducted discovery in this case
15 and believe that a continuance of the pretrial dates and deadlines is necessary to
16 complete both percipient and expert witness discovery. A summary of the
17 discovery conducted to date is set forth below.

18 5. Nationwide served Defendants with Interrogatories and Requests for
19 Production of Documents on July 15, 2014. Defendants' served responses to
20 Nationwide's Interrogatories and Requests for Production on August 18, 2014.

21 6. Defendants served Nationwide with Requests for Production of
22 Documents on July 24, 2014, and with Interrogatories on September 3, 2014.
23 Nationwide served responses to Defendants' Requests for Production on August
24 26, 2014, and served verified responses to Defendants' Interrogatories on October
25 6, 2014.

26 7. The Parties have collectively subpoenaed documents from all of the
27 following entities: (1) HFS Enterprises; (2) JSA Company; (3) the California
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1 Department of Motor Vehicles; (4) Vicente Trucking; (5) Walter Mortensen
2 Insurance Agency; (6) Copart, Inc.; and (7) Peerless Insurance Company.

3 8. On September 25, 2014, Nationwide noticed the FRCP 30(b)(6)
4 deposition of JSA Company to take place on October 15, 2014. Approximately
5 one week prior to the deposition, an attorney representing JSA Company advised
6 Nationwide's counsel that JSA Company's deposition would have to be postponed
7 indefinitely because the person most knowledgeable at the company had recently
8 suffered from a serious brain injury and was recovering in the hospital. As of the
9 date of this Stipulation, JSA Company's counsel has still not advised either of the
10 Parties as to when JSA Company will be able to offer a witness for examination
11 pursuant to Nationwide's Rule 30(b)(6) deposition notice. The Parties agree that
12 JSA Company is a material witness in this case and that its deposition is
13 important, but at this point it appears unlikely that the Parties will be able to take
14 JSA Company's deposition prior to the current discovery cut-off deadline of
15 January 5, 2015. The Parties anticipate that JSA Company's testimony may
16 reveal facts that necessitate further discovery and depositions, and therefore good
17 cause exists to continue the present discovery cut-off deadline by approximately
18 90 days to April 3, 2015.

19 9. On October 15, 2014, the Parties took the deposition of John
20 Antongiovanni, Jr.

21 10. On October 29, 2014, the Parties took the deposition of Vicente Felix
22 Acosta.

23 11. On October 31, 2014, the Parties took the FRCP Rule 30(b)(6)
24 deposition of Walter Mortensen Insurance Agency.

25 12. On November 12 and November 13, 2014, the Parties took five
26 depositions of the California Department of Motor Vehicles.

27 13. On November 17, 2014, the Parties took the deposition of Julie
28 Schuetz. Due to the length of Mrs. Schuetz's deposition, the Parties were unable to

1 start the deposition of Jonathan Schuetze also originally noticed for November 17,
2 2014. Mr. Schuetz is not available until January 2014 and a confirmed date for
3 Mr. Schuetz's deposition has not been set. Mrs. Schuetz's testimony revealed
4 additional facts that necessitate further discovery and the Parties anticipate that
5 Mr. Schuetz's testimony may similarly reveal facts that necessitate further
6 discovery and depositions, and therefore good cause exists to continue the present
7 discovery cut-off deadline by approximately 90 days to April 3, 2015.

8 14. Defendants have also noticed the FRCP 30(b)(6) deposition of
9 Copart, Inc. to take place on December 2, 2014.

10 15. Good cause also exists to continue all remaining pretrial dates and
11 deadlines along with the present discovery cut-off deadline to accommodate the
12 additional discovery that the Parties anticipate will need to be conducted.

13 16. The Parties have not previously requested a continuance of any dates
14 in the Court's Scheduling Order.

15 17. Furthermore, continuing the pretrial dates and deadlines as requested
16 above will not interfere with the dates the Court set for the Pretrial Conference or
17 for the trial.

18 18. Therefore, the Parties respectfully request and jointly move the Court
19 continue all of the pretrial dates and deadlines in this matter as set forth above in
20 Paragraph 2.

21
22 Dated: November 18, 2014

**SHERNOFF BIDART
ECHEVERRIA BENTLEY LLP**

**THE LAW OFFICES OF
YOUNG WOOLRIDGE, LLP**

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26
27 By: /s/ Ricardo Echeverria
Ricardo Echeverria
Scott Howry
Danica Dougherty

1 Clare H. Lucich
2 Attorneys for Defendants
3 GERARDO GARAY, MARY ROJAS,
4 CYNTHIA ROJAS, CHRISTINA
5 MONTECINO, GABRIEL
6 ROJAS, ANITA ROJAS, & BRANNON
7 JONAH CLAYTON

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Dated: November 18, 2014

HINES CARDER

By: /s/ Brian Pelanda
Marc S. Hines
Christine Emanuelson
Brian Pelanda
Attorney for Defendant
NATIONWIDE AGRIBUSINESS
INSURANCE COMPANY

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Nevertheless, good cause appearing, the Court **GRANTS** the stipulation and amends the scheduling order as follows:

- No other modifications to the case schedule are authorized.

Dated: **November 19, 2014**

7 PRETRIAL DATES AND DEADLINES