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Jerry W. Neufeld, Jr.

15
16 **UNITED STATES DISTRICT COURT**
17 **EASTERN DISTRICT OF CALIFORNIA**

18 JERRY W. NEUFELD, JR., an individual,

19 Plaintiff,

20 v.

21 WINCO HOLDINGS, INC. dba WINCO FOODS,
22 an Idaho corporation; and DOES 1 to 100,
inclusive,

23 Defendants.

Case No.: 1:14-CV-01505-KJM-JLT

**JOINT MOTION TO CONTINUE EXPERT
DISCOVERY CUTOFF AND PRETRIAL
AND TRIAL DEADLINES; [PROPOSED]
ORDER**

(Doc. 22)

1
2 TO THE HONORABLE JUDGE MUELLER:

3 WinCo Holdings, Inc. (“Defendant”) and Jerry W. Neufeld (“Plaintiff”) through their counsel of
4 record jointly move for (1) a continuance of the expert discovery deadline, and (2) a continuance of the
5 current trial and pretrial filing deadlines, pending the outcome of WinCo’s pending motion for summary
6 judgment. In support of this Motion, the parties stipulate as follows:

7 1. This matter was removed to the U.S. District Court, Eastern District of California on
8 September 25, 2014. This Court issued a scheduling order on February 20, 2015, following the
9 February 19, 2015 status conference.

10 2. The parties have not previously sought the continuance of any deadline set in the original
11 February 20, 2015 scheduling order, and have diligently complied with all scheduling deadlines to date.

12 3. Defendant promptly filed its “Motion for Summary Judgment or, In the Alternative,
13 Motion for Summary Adjudication” on October 21, 2015, within one month of the close of all non-
14 expert discovery.
15

16 4. WinCo’s Motion for Summary Judgment was noticed for hearing for December 4, 2015,
17 in advance of the current expert discovery cutoff and current pretrial filing deadlines. Plaintiff filed his
18 Opposition on November 20, 2015, and WinCo filed its Reply on November 25, 2015.

19 5. By order dated December 1, 2015, the Court reset the hearing on Defendant’s Motion for
20 Summary Judgment for January 15, 2016.
21

22 6. Expert discovery is currently set to close on December 26, 2015, and the parties have an
23 unresolved dispute concerning the sufficiency of Plaintiff’s disclosures of non-retained experts. The
24 reset January 15, 2016 hearing date on Defendant’s Motion for Summary Judgment is presently set to
25 occur after the current expert discovery cutoff. The parties jointly wish to defer the expense of motion
26 practice and depositions of Plaintiff’s retained and non-retained experts pending the resolution of the
27 Motion for Summary Judgment.
28

1 7. The reset January 15, 2016 hearing date on WinCo’s Motion for Summary Judgment is
2 also in close proximity to the January 28, 2016 deadline for the parties to file the comprehensive joint
3 pretrial statement (identifying all non-discovery motions and their resolution, all undisputed and
4 disputed facts core to each claim; lists of evidentiary issues subject to motions in limine, points of law in
5 support of claims and defenses; a joint statement of the case; all witnesses and their expected testimony,
6 all exhibits, and all further disclosures mandated by Local Rule 281).

8 8. The parties wish to avoid expert discovery expenses, discovery filings, and burdening the
9 Court with further pretrial and trial filings pending the resolution of the pending Motion for Summary
10 Judgment.

11 9. The Parties have met and conferred and have agreed to request (1) an extension of the
12 expert discovery cutoff deadline from December 26, 2015 to **March 15, 2016** (i.e., two months
13 following the January 15, 2016 hearing on the motion for summary judgment); (2) a resetting of the
14 current April 4, 2016 trial date to a date of the Court’s convenience in **June or July 2016**, with a
15 corresponding adjustment of all pretrial deadlines (including the joint pretrial statement deadline,
16 pretrial conference date, and the trial brief deadline).

17 10. No prior scheduling extensions have been sought by either party in this matter as to any
18 scheduling deadline, and the proposed three month extensions on the current expert discovery and trial
19 and pretrial deadlines are sought in good faith and for purpose of judicial economy, pending the
20 outcome of WinCo’s Motion for Summary Judgement.

21 **NOW THEREFORE**, all Parties hereto stipulate and agree that the Court may enter an Order
22
23 (a) continuing the expert discovery deadline to March 15, 2016
24 (b) continuing the trial date from April 4, 2016 to a date of the Court’s convenience in June or July
25 (c) continuing the pretrial deadlines for the joint pretrial statement, pretrial conference, and the parties’
26 trial briefs to correspond with the reset trial date.
27
28

1 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

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3
4 DATED: December 14, 2015

Respectfully submitted,
SEYFARTH SHAW LLP

7 By: /s/ Michael W. Kopp
8 Kristina M. Launey
9 Michael W. Kopp

10 Attorneys for Defendant
WINCO HOLDINGS, INC.

11 DATED: December 14, 2015

LAW OFFICES OF MICHELLE IARUSSO

12
13 By: /s/ Michelle Iarusso
14 Michelle Iarusso

15 Attorneys for Plaintiff
JERRY NEUFELD

16 Attorney for Plaintiff agreed with the contents of
17 this document and authorized the filer to use her
18 electronic signature

18 **ORDER**

19 Based upon the stipulation of counsel, the Court **ORDERS**:

- 20 1. The parties **SHALL** complete all expert discovery no later than **March 15, 2016**;
- 21 2. The trial is continued to **June 20, 2016**;
- 22 3. The deadline to file the joint pretrial statement is **April 14, 2016**;
- 23 4. The pretrial conference is continued to **May 5, 2016**;
- 24 5. The deadline to submit trial briefs is **June 6, 2016**.

25
26 IT IS SO ORDERED.

27 Dated: **December 22, 2015**

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

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