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

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

18 Plaintiff,

19 v.

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

22 Defendants.

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

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

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Trial Date: June 28, 2016
Complaint Filed: July 28, 2014

1 TO THE HONORABLE JUDGE DROZD:

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

6 The parties requested and the Court previously granted extensions of the expert, pre-trial, and
7 trial deadlines by order dated December 22, 2015 (Dkt. No. 23), in order to allow the Court to rule first
8 on WinCo’s pending Motion for Summary Judgment, before requiring potentially unnecessary expert
9 discovery and pre-trial filings. *See id.* at pp. 2-4. WinCo’s Motion for Summary Judgment remains
10 pending, and the same concerns of judicial economy and avoidance of potentially unnecessary litigation
11 weigh in favor of allowing the Court to rule first on the summary judgment motion, prior to requiring
12 further expert discovery and pretrial filings.

13 Consistent with the parties’ prior stipulation and this Court’s prior order, the parties accordingly
14 seek an extension of the expert, pretrial and trial deadlines, pending the Court’s ruling on WinCo’s
15 pending motion for summary judgment. In support of this Motion, the parties provide the following
16 procedural background:

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

20 2. The parties promptly complied with this initial scheduling order, including completing all
21 non-expert discovery by September 18, 2015. In addition, Defendant timely filed its “Motion for
22 Summary Judgment or, In the Alternative, Motion for Summary Adjudication” on October 21, 2015, in
23 compliance with the original scheduling order.

24 3. WinCo’s Motion for Summary Judgment was noticed for hearing for December 4, 2015,
25 in advance of the original expert discovery cutoff and pretrial filing deadlines. WinCo’s motion for
26 summary judgment is potentially dispositive of all of Plaintiff’s claims. Plaintiff filed his Opposition on
27 November 20, 2015, and WinCo filed its Reply on November 25, 2015.

1 4. By order dated December 1, 2015 (Dkt. No. 21), the Court reset the hearing on
2 Defendant's Motion for Summary Judgment for January 15, 2016, which would have occurred after the
3 original expert discovery cutoff.

4 5. In order to avoid burdening the Court and the parties with the potentially unnecessary
5 expense and burden of (1) expert discovery motion practice, (2) the depositions of Plaintiff's retained
6 and non-retained experts, and (3) extensive pretrial filings, on December 14, 2015, the parties filed a
7 joint motion to extend the expert and pre-trial deadlines by approximately 2 1/2 months, from December
8 26, 2015, to March 15, 2016, to allow for a ruling on the Motion for Summary Judgment. (Dkt. No. 22.).

9 6. By order dated December 22, 2015 (Dkt. No. 23), the Court granted the parties'
10 stipulation, which extended the expert and pretrial deadlines to allow the Court to rule first on WinCo's
11 pending Motion for Summary Judgment. *Id.*

12 7. WinCo's Motion for Summary Judgment was argued before Judge Mueller on January
13 15, 2016, and remains pending with the Court. The action was reassigned from Judge Mueller to Judge
14 Drozd on February 18, 2016. (Dkt. No. 26.) Because the Motion for Summary Judgment remains
15 pending before the Court, the same concerns of judicial economy and avoiding potentially unnecessary
16 expert discovery and pretrial filings apply. The parties wish to avoid those expenses and filings pending
17 the outcome of WinCo's Motion for Summary Judgment.

18 8. The Parties have met and conferred and have agreed to request that this Court (1) extend
19 the expert discovery cutoff deadline from March 15, 2016 to **June 16, 2016**; and (2) reset the current
20 trial date to a date of the Court's convenience in **September or October 2016**, with a corresponding
21 adjustment of all pretrial deadlines (including the joint pretrial statement deadline, pretrial conference
22 date, and the trial brief deadline).

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1 9. Only one prior scheduling extension was sought in this matter as to any scheduling
2 deadline (discussed at para. 5 above), and the proposed three-month extensions on the current expert
3 discovery and trial and pretrial deadlines are sought in good faith and for purpose of judicial economy,
4 pending the outcome of WinCo's Motion for Summary Judgement.

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

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8 DATED: February 26, 2016

Respectfully submitted,
SEYFARTH SHAW LLP

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10
11 By: /s/ Michael W. Kopp
12 Kristina M. Launey
13 Michael W. Kopp

Attorneys for Defendant
WINCO HOLDINGS, INC.

14 DATED: February 26, 2016

LAW OFFICES OF MICHELLE IARUSSO

15
16 By: /s/ Michelle Iarusso
17 Michelle Iarusso

18 Attorneys for Plaintiff
19 JERRY NEUFELD

20 Attorney for Plaintiff agreed with the contents of
21 this document and authorized the filer to use her
22 electronic signature
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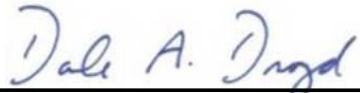
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The Court hereby orders:

- (a) the deadline for the parties is continued to complete expert discovery to June 16, 2016.
- (b) the trial date is continued from June 28, 2016, to **September 27, 2016, at 8:30am.**
- (c) the deadline to file the joint pretrial statement is continued to July 25, 2016.
- (d) the pretrial conference is reset to **August 1, 2016, at 1:30 pm.**
- (e) the deadline to submit trial briefs is continued to September 13, 2016.

IT IS SO ORDERED.

Dated: February 29, 2016



UNITED STATES DISTRICT JUDGE