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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ST. PAUL FIRE AND MARINE
INSURANCE COMPANY, NEW YORK
MARINE AND GENERAL
INSURANCE COMPANY,

Plaintiffs,

v.

KINSALE INSURANCE COMPANY,

Defendant.

TRC OPERATING COMPANY, INC.,
TRC CYPRESS GROUP, LLC.,

Real Parties in Interest.

Case No. 1:20-cv-00967-JLT-CDB

**ORDER ON SECOND STIPULATION
EXTENDING LIMITED DISCOVERY
AND DISPOSITIVE MOTION BRIEFING
SCHEDULE**

(Doc. 78)

This action was initiated with Plaintiffs' filing of a complaint on July 10, 2020. (Doc. 1).

Following a lengthy stay in deference to a pending, related state court action (*see* Docs. 23, 24), on March 10, 2023, the court granted in part Plaintiffs' motions to lift the stay. (Doc. 65). In addition, the Court ordered the parties to file a joint report proposing a discovery and briefing schedule on the limited questions as to whether and the extent to which Defendant owes a duty to defend the Real Parties in Interest. *Id.* at 7.

Following its receipt of the parties' joint report, on March 27, 2023, the Court issued a scheduling order that governs the limited discovery and dispositive motions related to the duty to defend issue. (Docs. 66, 67). On June 30, 2023, the Court granted the parties' request to extend the operative case management dates to facilitate the parties' pursuit of a scheduled mediation. (Docs. 70, 71).

1 Pending before the Court is the parties' second stipulated request to extend the operative
2 case management dates, including to facilitate continued discovery if necessary and to expand the
3 dispositive motion briefing schedule. (Doc. 78). In short, the parties propose to suspend noticed
4 depositions and proceed directly to filing partial summary judgment motions relating solely to the
5 question of whether Kinsale has a duty to defend ("Phase 1"). (Doc. 78-1 p. 2). Thereafter, if the
6 Court finds that such a duty does exist, the Court shall require the parties to file a joint report
7 proposing a discovery and briefing schedule for motions addressing the disputed allocation issues
8 as well as any motion filed by Defendant seeking to terminate its duty to defend ("Phase 2"). *Id.*

9 Although not expressly represented or acknowledged by the parties in their stipulation, it
10 appears their proposal is motivated by an interest to conserve resources – to wit, in the event the
11 Court finds Defendant has no duty to defend, the parties likely will have no need to engage in
12 further discovery (including, presumably, the noticed depositions the parties seek to suspend).

13 For good cause shown, the Court ORDERS that the operative case management dates be
14 extended as follows:

- 15 1. The deadline to complete depositions and to file discovery-related motions is
16 VACATED.¹
- 17 2. The deadline to meet and confer to discuss the topics set forth in Paragraph D(1) of the
18 parties' joint report (Doc. 66 p. 3) is extended from November 10, 2023, to **December 8,**
19 **2023.**
- 20 3. The deadline to file a joint statement of undisputed material facts is extended from
21 November 17, 2023, to **December 15, 2023.**
- 22 4. The deadline to file the Phase 1 dispositive motions is extended from December 8, 2023,
23 to **January 8, 2024.**
- 24 5. Any oppositions to the Phase 1 dispositive motions shall be filed within 21 days after the

25
26 ¹ The parties' present request to vacate the deadline to complete depositions is untimely
27 insofar as it was filed the day after the deadline expired. *Compare* (Doc. 71) to (Doc. 78). In the
28 event the parties seek to take depositions in connection with any Phase 2 motions, they are
required to make a showing of good cause in a stipulated request or motion seeking such relief
that shall address among other things the efforts they undertook to conduct depositions between
March 27, 2023, and the October 27 deadline.

