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6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF CALIFORNIA  
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9 JACK WILLIAMS and CARI  
10 WILLIAMS,

No. 2:09-cv-01023-MCE-DAD

11 Plaintiffs,

12 v.

**ORDER**

13 ALLSTATE INSURANCE COMPANY,

14 Defendant.  
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16 In this case alleging breach of contract and insurance bad  
17 faith, Plaintiffs Jack Williams and Cari Williams ("Plaintiffs")  
18 allege that their homeowners' carrier, Defendant Allstate  
19 Insurance Company ("Allstate") breached its obligation to provide  
20 indemnification following a windstorm loss that occurred on or  
21 about January 4, 2008. Allstate has moved for partial summary  
22 adjudication as to Plaintiffs' Second Cause of Action, for breach  
23 of the implied covenant of good faith and fair dealing, on  
24 grounds that Allstate's coverage determination was made as a  
25 result of its reasonable reliance on expert reports indicating  
26 that the windstorm was not the cause of Plaintiffs' purported  
27 loss. Allstate's motion is presently scheduled to be heard on  
28 September 2, 2010.

1 Presently before the Court is Plaintiffs' ex parte  
2 application for an order shortening time on its Motion to  
3 Continue Allstate's Motion for Partial Summary Judgment.  
4 Plaintiffs request that their motion be heard on an expedited  
5 basis since its opposition to Allstate's motion is due on  
6 August 20, 2010. Plaintiffs contend that they have outstanding  
7 discovery requests going to the heart of whether the opinions  
8 proffered by Allstate's experts were indeed reasonable. That  
9 discovery is subject to a timely Motion to Compel to be heard on  
10 August 27, 2010, just five business days before the hearing on  
11 Allstate's summary judgment motion, and a week after Allstate's  
12 opposition is due given the current September 2, 2010 hearing  
13 date. Citing the necessity of obtaining the disputed discovery  
14 in order to meaningfully oppose Allstate's Motion, Plaintiffs  
15 seek a continuance of that motion under Federal Rule of Civil  
16 Procedure 56(f).

17 Rule 56(f) states in pertinent part as follows:

18 **(f) When Affidavits are Unavailable.** Should it appear  
19 from the affidavits of a party opposing the motion that  
20 the party cannot for reasons stated present by  
21 affidavit facts essential to justify the party's  
22 opposition, the court may refuse the application for  
judgment or may order a continuance to permit  
affidavits to be obtained or depositions to be taken or  
discovery to be had or may make such other order as is  
just.

23 Rule 56(f) confers the court with discretion to order that  
24 additional discovery be completed before to summary judgment, or  
25 to "make such order as it just" to "protect parties from a  
26 premature grant of summary judgment." Weinberg v. Whatcom  
27 County, 241 F.3d 746, 750 (9th Cir. 2001).

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1 "A district court should continue a summary judgment upon a good  
2 faith showing by affidavit that the continuance is needed to  
3 obtain facts essential to preclude summary judgment." Id. at  
4 750, citing California v. Campbell, 138 F.3d 772, 779 (9th Cir.  
5 1998).

6 The Declaration of Plaintiffs' counsel, George E. Murphy,  
7 articulates in detail just why the still-outstanding discovery is  
8 necessary in order to oppose Allstate's Motion. In response to  
9 Plaintiffs' request for an order shortening time, Allstate's  
10 counsel points to the fact that it had to have its potentially  
11 dispositive Motion for Partial Summary Judgment heard by  
12 September 14, 2010 under the terms of the Court's current  
13 Pretrial Scheduling Order, and indicates that the selected  
14 September 2, 2010 date was the last motion date remaining before  
15 that deadline expired. With respect to the motion itself,  
16 Allstate states only that Plaintiffs have indeed raised "a  
17 serious question" concerning their need to obtain additional  
18 information for purposes of properly opposing Allstate's Motion  
19 for Partial Summary Judgment.

20 Under the circumstances, the Court concludes that  
21 Plaintiffs have shown good cause for continuing the hearing on  
22 Allstate's Motion for Partial Summary Judgment. Given the  
23 impending deadlines, as well as the papers already submitted,  
24 Plaintiffs' continuance request is hereby GRANTED.

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1 The hearing on Allstate's Motion for Partial Summary Judgment  
2 (ECF No. 30) is continued from September 2, 2010 to **October 14,**  
3 **2010 at 2:00 p.m.** The deadlines for opposition and reply, if  
4 any, shall be calculated in advance of that continued date in  
5 accordance with Local Rule 230(c) and (d).

6 IT IS SO ORDERED.

7 Dated: August 17, 2010

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10 MORRISON C. ENGLAND, JR.  
11 UNITED STATES DISTRICT JUDGE  
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