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13 Attorneys for Defendant,
14 NATIONWIDE MUTUAL INSURANCE COMPANY

15
16 **IN THE UNITED STATES DISTRICT COURT**
17 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

18 WANDA A. SELL, individually
19 and a Trustee of the Nancy A.
Muhs Trust,

20 Plaintiffs,

21 vs.

22 NATIONWIDE MUTUAL
23 INSURANCE COMPANY, and
DOES 1 through 10, inclusive,

24 Defendants

CASE NO. 2:09-cv-01584-GEB-GGH

*Assigned to Honorable Garland E. Burrell,
Jr.*

**STIPULATION AND ORDER AMENDING
THE STATUS [PRETRIAL SCHEDULING]
ORDER TO EXTEND THE DEADLINE FOR
THE PARTIES TO EXCHANGE EXPERT
WITNESS DISCLOSURES AND REPORTS
AND TO EXTEND THE DISCOVERY
COMPLETION DATE**

Trial: January 11, 2011

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1 Defendant, Nationwide Mutual Insurance Company (“Nationwide”), and
2 Plaintiff, Wanda A. Sell (“Plaintiff”), through their respective counsel of record,
3 jointly submit the following stipulation and order to amend the Status (Pretrial
4 Scheduling) Order to extend the deadline for the parties to exchange expert witness
5 disclosures and reports by 60 days and to extend the discovery completion date by
6 30 days. The Stipulation is made pursuant to Federal Rules of Civil Procedure 6(b)
7 and 16(b)(4), Local Rules 83-143 and 6-144, and the Status (Pretrial Scheduling)
8 Order entered herein.

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10 **BRIEF STATEMENT OF CASE**

11 This action was filed on April 10, 2009. This is a dispute involving a Farm
12 Policy issued to named insured Nancy A. Muhs, owner of 87 acres of a ranch
13 located at 13091 Willow Glen Road, Stockton, California (the “Property”), by
14 Defendant for policy periods August 7, 2007 to August 8, 2008. Nancy A. Muhs
15 passed away in 2005 and the Property was place in the Nancy A. Muhs Trust (the
16 “Trust”).

17 Plaintiff, trustee and beneficiary of the Trust, contends Defendant incorrectly
18 denied Plaintiffs’ tender of defense in connection with an underlying Petition filed
19 by Rigoberto Ocequeda, next living successor to the Property, against Plaintiff
20 demanding possession of the Property and claiming Plaintiff has not occupied the
21 Property as her residence, pursuant to the alleged terms of the Trust (the
22 “Underlying Action”). Plaintiff also alleges Defendant denied the claim in bad
23 faith.

24 Defendant contends there is no potential for coverage of the Underlying
25 Action under the policy at issue and therefore no duty to defend. To the extent
26 Plaintiff claims there is or could be a duty to indemnify, Defendant contends the
27 policy does not provide coverage. Defendant further contends its claims decision
28 was reasonable and there is, at a minimum, a genuine issue of liability under the

1 policy.

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3 **SCHEDULING ORDER**

4 On August 10, 2009, the parties filed a Joint Status Report which included a
5 proposed scheduling order. On August 14, 2009, this Court entered a Status
6 (Pretrial Scheduling) Order which set forth the following pre-trial and trial
7 deadlines:

- 8 1. Initial Expert Disclosures: February 19, 2010
9 3. Rebuttal Expert Disclosures: March 22, 2010
10 4. Completion of Discovery: June 10, 2010
11 5. Deadline to Hear Dispositive Motions: August 2, 2010
12 6. Final Pre-Trial Conference: October 4, 2010
13 7. Trial: January 11, 2011

14 **DISCLOSURES**

15 The parties exchanged Initial Disclosures pursuant to Federal Rules of Civil
16 Procedure 26(a)(1) in October 2009.

17
18 **STIPULATION OF PARTIES BASED ON GOOD CAUSE**

19 WHEREAS, the parties stipulate and agree more time to conduct further
20 discovery before retaining expert witnesses would allow the parties additional time
21 to discover information and evaluate the case for settlement purposes prior to
22 incurring expenses associated with retaining experts and preparing expert reports
23 given the early stages of this litigation.

24 WHEREAS, additional time to conduct further discovery will allow the
25 parties to evaluate the potential for early settlement prior to incurring needless
26 expenses on expert discovery.

27 WHEREAS, to facilitate additional time for discovery, the parties stipulate
28

1 and agree to extend the initial expert disclosures deadline to April 20, 2010 and the
2 rebuttal expert disclosures deadline to May 21, 2010.

3 WHEREAS, to allow the parties sufficient time to conduct any necessary
4 expert depositions prior to discovery cut-off, the parties stipulate and agree to a
5 short 30-day continuance of the expert discovery deadline to July 10, 2010.

6 WHEREAS, the parties stipulate and agree the continuance of the expert
7 disclosures and discovery cut-off date would not affect the remaining pre-trial and
8 trial dates in this matter.

9 WHEREAS, there has been no previous requests or extension of any
10 deadline in this matter.

11 WHEREAS, the deadline to exchange initial expert disclosures, including
12 reports, has not passed.

13 WHEREAS, the trial date and the deadline to hear dispositive motions will
14 remain unchanged.

15 WHEREAS, the parties have not submitted any other request for
16 continuance of the pre-trial and trial dates and deadlines in this matter.

17 WHEREAS, the Federal Rules of Civil Procedure 6(b), 16(a) and 16(b)(4)
18 give the Court broad discretion to regulate pre-trial matters, to manage its calendar,
19 grant continuance of scheduling dates, and to direct the parties in a manner that
20 expedites disposition of the action and facilitates settlement.

21 WHEREAS, as set forth herein, good cause exists for the Court to grant the
22 continuance under any of the Rules.

23 NOW, THEREFORE, all the parties hereto agree and stipulate to amend the
24 Status (Pretrial Scheduling) Order to extend the deadline for the parties to
25 exchange expert witness disclosures and reports by 60 days and to extend the
26 discovery completion date by 30 days as follows:

27 1) The parties' shall comply with Federal Rule of Civil Procedure
28 26(a)(2)(c)(i)'s initial expert witness disclosure requirements on or before April 20,

1 2010, and with any contradictory and/or rebuttal expert disclosure authorized under
2 Rule 26(a)(2)(c)(ii) on or before May 21, 2010; and

3 2) All discovery shall be completed by July 10, 2010.

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5 IT IS SO STIPULATED.

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7 Dated: February 2, 2010

GIFFORD & HARR

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10 By: _____

Randall L. Harr
Attorney for Plaintiff
WANDA A. SELL

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13 Dated: February 2, 2010

HINES SMITH CARDER LEASURE DINCEL

14 By: _____

Marc S. Hines
Christine M. Emanuelson
Attorneys for Defendant
NATIONWIDE MUTUAL FIRE INSURANCE
COMPANY

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1 **ORDER**

2 Based on the foregoing Stipulation,

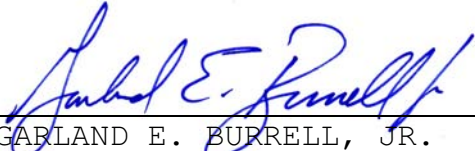
3 IT IS HEREBY ORDERED that the Status (Pretrial Scheduling) Order be, and the
4 same hereby is, amended to provide as follows:
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6 1) The parties' shall comply with Federal Rule of Civil Procedure
7 26(a)(2)(c)(i)'s initial expert witness disclosure requirements on or before April 20,
8 2010, and with any contradictory and/or rebuttal expert disclosure authorized under
9 Rule 26(a)(2)(c)(ii) on or before May 21, 2010; and

10 2) All discovery shall be completed by July 10, 2010.

11 IT IS SO ORDERED.

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13 2/9/10

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16 GARLAND E. BURRELL, JR.
17 United States District Judge
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