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28UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DONALD ANDERSON, et al.,

Plaintiffs,

v.

NATIONWIDE MUTUAL INSURANCE
CO., et al.,

Defendants.

No. 2:12-cv-01057-MCE-GGH

ORDER

On December 19, 2012, this Court issued a Pretrial Scheduling Order requiring that the parties designate experts by September 12, 2013 and setting January 23, 2014 as the last day to hear dispositive motions. ECF No. 26. On August 30, 2013, the parties submitted a stipulation to amend the scheduling order to continue dates for designation of experts and presentation of expert reports and for dispositive motions. ECF No. 39. The parties stipulated to reset the date for designation of experts and presentation of expert reports for October 28, 2013, and the date for hearing all dispositive motions as March 4, 2014. Id.

On September 11, 2013, the Court issued an order granting the continuance of expert reports and dispositive motions. ECF No. 40. This order reset the deadline for designation of experts and presentation of expert reports for Oct. 28, 2013, and the date for hearing all dispositive motions as March 4, 2014. The order also vacated the

1 March 20, 2014 pretrial conference, and May 12, 2014 jury trial, and stated that an
2 amended pretrial order would be forthcoming. Id.

3 On October 28, 2013, Plaintiff Donald Anderson filed his disclosure of expert
4 witnesses. ECF No. 41. On November 25, 2013, the Court issued an amended pretrial
5 scheduling order. This order set the following deadlines: (1) Discovery: July 12, 2014;
6 (2) disclosure of expert witnesses: October 28, 2014; (3) dispositive motions: February 5,
7 2015; (4) final pretrial conference: April 16, 2015; and (5) trial: June 1, 2015.

8 On November 27, 2013, Plaintiff filed objections to the pretrial scheduling order,
9 ECF No. 44, on the grounds that the Court's amended pretrial scheduling order
10 essentially re-opened non-expert discovery and the time for expert disclosure, which had
11 been set for July and October 2013, after these deadlines had passed. Thus, Plaintiff
12 objected to the non-expert discovery deadline of July 12, 2014, and the resetting of the
13 expert disclosure date of October 28, 2014. Finally, Plaintiff objected to the trial being
14 continued to June 1, 2015, as the plaintiffs are residents of a retiree community and thus
15 may die or have health problems during that time.

16 Thereafter, on February 11, 2014, Plaintiffs filed a petition to modify the amended
17 scheduling order. Plaintiffs contend that they never requested a continuance of their
18 FPTC or their trial, only of the expert disclosure and dispositive motion dates. Plaintiffs
19 again contend that all non-expert discovery has been completed, expert disclosures
20 have been completed, and only three possible expert depositions remain to be taken.
21 Plaintiffs again assert that a trial date of June 1, 2015, prejudices Plaintiffs, who suffer
22 from progressively poor health. Accordingly, Plaintiffs petition the Court to modify the
23 Amended Pretrial Scheduling Order and reset the dispositive motion hearing date, final
24 pretrial conference date, and the trial date as soon as practical within 2014. Plaintiffs
25 submitted a proposed order, which advised the Court that discovery had effectively been
26 re-opened by the Court's order. Plaintiffs further requested that the Court reset the
27 deadline for dispositive motions to May 23, 2014, and move the trial to an available date
28 in 2014.

1 After examination of the Court's November 25, 2013, Amended Pretrial
2 Scheduling Order, the Court learned that, through an inadvertent error in the docketing
3 process, the 2013 discovery and expert disclosure deadlines had been changed to 2014,
4 thus reopening discovery. Because the parties have now relied on the Court's Order
5 which moved these deadlines to 2014, the Court finds it would be unjust and
6 unreasonable to immediately close discovery and reinstate the original 2013 dates.
7 However, the Court also finds that a fair and just disposition of this issue requires that
8 the deadlines for discovery and expert disclosures be advanced from the currently set
9 dates of July 12, 2014, and October 28, 2014.

10 Accordingly, the Court hereby amends the scheduling order, ECF No. 43, as
11 follows: (1) discovery shall be due **sixty (60) days from the date of this order**; and (2)
12 designation of expert witnesses shall be due **sixty (60) days from the date of this**
13 **order**. However, the Court DENIES Plaintiff's request to modify the date for hearing
14 dispositive motions, the final pretrial conference date, and the trial date. In accordance
15 with the Court's November 25, 2013, Amended Pretrial Scheduling Order, the last day to
16 hear dispositive motions shall be February 5, 2015. The parties shall comply with the
17 briefing schedule set forth in the November 25 Order, ECF No. 43. The Final Pretrial
18 Conference is set for April 16, 2015, at 2:00 PM, and trial is set for June 1, 2015, with
19 trial briefs, evidentiary motions, and procedural motions to be filed in accordance with
20 the November 25 Order.

21 IT IS SO ORDERED.

22 Dated: March 10, 2014

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26 MORRISON C. ENGLAND, JR., CHIEF JUDGE
27 UNITED STATES DISTRICT COURT
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