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COMPASS BANK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GLORIA VALERIO,

Plaintiff,

v.

COMPASS BANK; and DOES 1through 50,
inclusive,

Defendants.

Case No: 2:14-CV-00741-JAM-KJN

**STIPULATION TO MODIFY AMENDED
STATUS (PRE-TRIAL SCHEDULING)
ORDER AND MINUTE ORDER;
ORDER**

Gloria Valerio (“Plaintiff”) and Compass Bank (“Defendant”) (collectively, “the Parties”) jointly submit this Stipulation to Modify Amended Status (Pre-Trial Scheduling) Order and Minute Order, and [Proposed] Order (“Stipulation”). For the reasons set forth below and good cause showing, the Parties request that the Court continue the trial and pre-trial deadlines set forth in this Court’s Amended Status (Pre-Trial Scheduling) Order (Doc. 12) and subsequent Minute Order (Doc. 14) for a period of six months as specifically stipulated below.

I. DEFENDANT’S SUMMARY OF RELEVANT FACTS SHOWING GOOD CAUSE FOR A CONTINUANCE

Defendant is submitting a separate Declaration of Jerry J. Deschler Jr. setting forth facts Defendants believe demonstrate that Defendant has been diligent in complying with all deadlines, and that good cause exists for continuing deadlines. Defendant contends that Plaintiff has acted in such a way that has caused unnecessary delay and prejudice. Plaintiff does not join in Defendant’s Declaration.

II. JOINT RECITALS SHOWING GOOD CAUSE TO GRANT THE REQUESTED CONTINUANCE

WHEREAS, this Court issued its Amended Status (Pre-Trial Scheduling) Order (Doc. 12) on September 3, 2014.

WHEREAS, the parties filed with this Court a Joint Objection to the Amended Scheduling Order (Doc. 13) on September 10, 2014.

WHEREAS, this Court entered a Minute Order on September 10, 2014, sustaining the parties Joint Objection (Doc. 14), which established the following deadlines:

- Expert Disclosure: May 22, 2015
- Rebuttal Expert Disclosure: June 26, 2015
- Discovery Cutoff: August 28, 2015
- Dispositive Motions: October 7, 2015
- Noticed Hearing on Dispositive Motions: November 4, 2015
- Joint Pretrial Statement: January 8, 2016

- Final Pretrial Conference: January 15, 2016
- Jury Trial: February 29, 2016

WHEREAS, Defendant conducted Plaintiff's deposition on February 3, 2015 and February 4, 2015 by mutual agreement of the Parties. And, due to multiple extended breaks by Plaintiff, Plaintiff's need for an interpreter, and other factors, Plaintiff did not complete her deposition.

WHEREAS, the Parties agreed to complete Plaintiff's deposition on a mutually agreeable date thereafter, and Defendant began its attempts to schedule the session in February 2015. These good faith efforts continued into early March 2015.

WHEREAS, Plaintiff subsequently claimed she was medically unable to complete her deposition until some unknown date in the future, but has not produced a note from a physician stating: (1) she cannot be deposed for medical reasons, and (2) when she will be medically capable of appearing.

WHEREAS, The Parties mutually agreed that Plaintiff would submit to a mental examination on April 21, 2015 to be evaluated by several of Defendant's retained expert witnesses.

WHEREAS, Plaintiff substantially delayed the start of the mental examination by appearing, but initially refusing to be examined.

WHEREAS, Plaintiff left the mental examination for a break after a short session with Defendant's retained experts, overmedicated herself and rendered herself medically unable to complete the mental examination.

WHEREAS, Plaintiff's conduct at the mental examination resulted in Defendant's inability to complete its expert witness disclosures.

WHEREAS, immediately after Plaintiff's incomplete mental examination, Defendant prepared to file motions to compel the completion of her deposition and mental examination. However, Defendant ceased these efforts because the Parties were engaged in ongoing

1 settlement discussions in lieu of pursuing further litigation, and it appeared the Parties had
2 reached settlement terms that were expected to be agreed upon and memorialized in writing.

3 WHEREAS the Parties reached terms that were expected to be agreed upon, only to
4 have Plaintiff “change her mind” and refuse to follow through.

5 WHEREAS, through no fault of Defendant, settlement was not obtainable.

6 WHEREAS, Plaintiff’s counsel intends to file a Motion to Withdraw as Counsel, with a
7 hearing tentatively set for July 1, 2015.

8 WHEREAS, Plaintiff claims she will need, at minimum, two months to find new
9 counsel for her civil case.

10 WHEREAS, the Parties will be unable to complete discovery or meet the expert
11 disclosure cutoffs.

12 WHEREAS, the Parties agree that it would be in their collective best interests to extend
13 the deadlines specified in the Amended Status (Pre-Trial Scheduling) Order and Minute Order,
14 which are set forth above for the Court’s reference.

15 **III. REQUESTED RELIEF**

16 Good cause having been shown, the Parties hereby request that the Court issue a new
17 scheduling order setting the trial/pre-trial dates as set forth in the stipulation below. This
18 additional time will permit Plaintiff to obtain new counsel, and permit Defendant to complete
19 discovery and expert reports/disclosures.

20 **IV. STIPULATION**

21 WHEREFORE, IT IS STIPULATED AND AGREED BY AND BETWEEN
22 PLAINTIFF AND DEFENDANT THAT THE NEW SCHEDULING ORDER SHALL BE AS
23 FOLLOWS:

- | | | |
|----|---------------------------------------|-------------------|
| 24 | • Expert Disclosure: | November 20, 2015 |
| 25 | • Rebuttal Expert Disclosure: | December 21, 2015 |
| 26 | • Discovery Cutoff: | February 29, 2016 |
| 27 | • Dispositive Motion Filing Deadline: | April 15, 2016 |

- Noticed Hearing on Dispositive Motions: May 11, 2016
- Joint Pretrial Statement: July 8, 2016
- Final Pretrial Conference: July 15, 2016
- Jury Trial: August 29, 2016

IT IS SO STIPULATED.

Dated: May 21, 2015

BOHM LAW GROUP

By: /s/ Victoria L. Baiza (as authorized on 5/21/2015)

LAWRANCE A. BOHM
VICTORIA L. BAIZA

Attorneys for Plaintiff
GLORIA VALERIO

Dated: May 21, 2015

JACKSON LEWIS P.C.

By: /s/ Jerry J. Deschler Jr.

CAROLYN G. BURNETTE
JERRY J. DESCHLER JR.

Attorneys for Defendant
COMPASS BANK

ORDER (AS MODIFIED BY THE COURT)

Having reviewed the Parties' stipulation, and good cause appearing therefore,
IT IS HEREBY ORDERED:

The Court shall issue a new Scheduling Order as follows:

- Expert Disclosure: November 20, 2015
- Rebuttal Expert Disclosure: December 21, 2015
- Discovery Cutoff: February 29, 2016
- Dispositive Motion Filing Deadline: April 20, 2016
- Noticed Hearing on Dispositive Motions: May 18, 2016 at 9:30 a.m.
- Joint Pretrial Statement: July 8, 2016
- Final Pretrial Conference: July 15, 2016 at 10:00 a.m.
- Jury Trial: August 29, 2016 at 9:00 a.m.

Dated: May 22, 2015

/s/ John A. Mendez
JOHN A. MENDEZ
United States District Court Judge