

1 Rebecca Grey (State Bar No. 194940)  
grey@greylaw-sf.com  
2 THE GREY LAW FIRM, P.C.  
3 235 Montgomery Street, Suite 1101  
San Francisco, California 94104  
4 Telephone: (415) 262-9926  
5 Facsimile: (415) 262-9981

6 Attorney for Plaintiff and Counterdefendant,  
DEVRA BOMMARITO

7  
8 Sean P. Nalty (State Bar No. 121253)  
sean.nalty@ogletreedeakins.com  
9 Shivani Nanda (State Bar No. 253891)  
shivani.nanda@ogletreedeakins.com  
10 Cara F. Barrick (State Bar No. 303107)  
cara.barrick@ogletreedeakins.com  
11 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.  
12 Steuart Tower, Suite 1300  
One Market Plaza  
13 San Francisco, CA 94105  
14 Telephone: (415) 442-4810  
Facsimile: (415) 442-4870

15 Attorneys for Defendant and Counterclaimant  
16 THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY

17  
18 UNITED STATES DISTRICT COURT  
19 EASTERN DISTRICT OF CALIFORNIA  
20 SACRAMENTO

21  
22 DEVRA BOMMARITO, an individual, ) No. 2:15-cv-01187-WBS-DB  
23 )  
24 Plaintiff and Counterdefendant, ) **STIPULATION AND ORDER TO**  
25 v. ) **MODIFY THE PRETRIAL**  
26 ) **SCHEDULING ORDER**  
27 THE NORTHWESTERN MUTUAL LIFE )  
INSURANCE COMPANY and MARK )  
28 MAJEWSKI, )  
Defendant and Counterclaimant. )  
)

1 Plaintiff and Counterdefendant DEVRA BOMMARITO ("Plaintiff") and Defendant and  
2 Counterclaimant THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY  
3 ("Defendant")(collectively "the Parties"), hereby submit the following stipulation to modify the dates  
4 for the disclosure of experts in this matter based on the following:

5 This proposed modification to the scheduling order will not impact the other dates stated in the  
6 Order other than the dates concerning the disclosure of experts and discovery directed toward those  
7 experts. The disclosure of experts in this matter currently is set for December 15, 2017. The  
8 disclosure of rebuttal experts currently is set for January 19, 2018.

9 Defendant will file a motion for summary judgment that should be heard in January 2018.  
10 Defendant contends that plaintiff's complaint is preempted by the Employee Retirement Income  
11 Security Act ("ERISA") and that plaintiff's claim for breach of the covenant of good faith and fair  
12 dealing lacks merit under the genuine dispute doctrine. The Parties want to disclose experts after a  
13 decision is made on this motion because the outcome of the motion will impact expert disclosure. The  
14 Parties agree that the most economical way to handle the prosecution of this action is to spend the  
15 money on the preparation of expert reports only after it is determined by the outcome of the motion for  
16 summary judgment if experts will be necessary. Expert disclosures and experts will not be necessary if  
17 this matter is governed by ERISA.

18 Accordingly, the Parties hereby stipulate that the disclosure of experts in this matter shall be  
19 March 5, 2018. The disclosure of rebuttal experts shall be March 19, 2017. Discovery directed to the  
20 experts shall be completed by April 6, 2018.

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1 DATED: November 13, 2017

THE GREY LAW FIRM, P.C.

2 By: /s/ Rebecca Grey  
3 Rebecca Grey  
4 Attorney for Plaintiff and  
5 Counterdefendant  
6 DEVRA BOMMARITO

7 DATED: November 13, 2017

OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.

8 By: /s/ Sean P. Nalty  
9 Sean P. Nalty  
10 Shivani Nanda


11 Attorneys for Defendant and  
12 Counterclaimant  
13 THE NORTHWESTERN MUTUAL  
14 LIFE INSURANCE COMPANY

15 **ORDER**

16 Pursuant to the parties' stipulation, IT IS HEREBY ORDERED that:

- 17 1. Date for initial disclosure of experts: March 5, 2018.
- 18 2. Date for disclosure of rebuttal experts: March 19, 2018.
- 19 3. Date to complete discovery directed at experts: April 6, 2018.<sup>1</sup>

20 Dated: December 18, 2017

21   
22 \_\_\_\_\_  
23 DEBORAH BARNES  
24 UNITED STATES MAGISTRATE JUDGE

25 DLB:6  
26 DB\orders\orders.civil\bommarito1187.stip.eot.sched.ord

27 \_\_\_\_\_  
28 <sup>1</sup> As explained by the assigned District Judge's October 8, 2015 scheduling order, "[t]he word 'completed' means that all discovery shall have been conducted so that all depositions have been taken and any disputes relevant to discovery shall have been resolved by appropriate order if necessary and, where discovery has been ordered, the order has been obeyed." (ECF No. 15 at 2-3.)