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 FORD MOTOR COMPANY  
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9 UNITED STATES DISTRICT COURT  
 10 EASTERN DISTRICT OF CALIFORNIA

11 UNIVERSAL NORTH AMERICA  
 12 INSURANCE COMPANY,

13 Plaintiff,

14 vs.

15 FORD MOTOR COMPANY,

16 Defendant.  
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Case No. 2:16-cv-00487-MCE-EFB

**STIPULATION AND ORDER RE:  
 EXTENSION OF DISCOVERY  
 DEADLINES**

18 Pursuant to L.R. 143 and 144, Federal Rule of Civil Procedure 16, and this Court’s  
 19 Initial Pretrial Scheduling Order dated June 22, 2016 (Dkt 8), the parties in the above-  
 20 captioned litigation jointly submit this Stipulation in which they seek the approval of the  
 21 Court for a limited extension of the discovery deadline, currently set for March 8, 2017, for  
 22 30 days to April 7, 2017, in order to complete a limited set of depositions in this matter.

**GOOD CAUSE**

24 Federal Rule of Civil Procedure 16 allows a court to modify a scheduling order upon  
 25 a showing of good cause. Fed. R. Civ. Pro. 16; *see also* Dkt 8 at \*6. A court may modify a  
 26 pretrial scheduling order ‘if it cannot reasonably be met despite the diligence of the party  
 27 seeking the extension.’ *Johnson v. Mammoth Recreations Inc.* (1992) 975 F.2d 605, 609 (9<sup>th</sup>  
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1 Cir.). Rule 16(b)'s "good cause" standard primarily considers the diligence of the party  
2 seeking amendment. *Id.* In the present case, the parties have worked diligently and  
3 cooperatively to try to schedule all depositions within the discovery period. However, despite  
4 their best efforts, the parties have been unable to identify and schedule a date for one  
5 deposition. Additionally, the possibility exists that two depositions currently on calendar  
6 may need to be moved to accommodate key witnesses in this case. Without the requested  
7 extension, Plaintiff Universal America Insurance Company (Plaintiff) and Defendant Ford  
8 Motor Company (Defendant) will both be prejudiced in the present case.

9 The present case is a subrogation matter, in which Plaintiff is asserting the claims of  
10 its insured. Over the course of several months, the parties have worked cooperatively and  
11 diligently to conduct all necessary discovery in this case. Currently, the parties have  
12 scheduled a vehicle inspection, multiple fact witness depositions and have exchanged written  
13 discovery. However, despite their best efforts, the parties have yet to set the depositions of  
14 two key witnesses in this case. Plaintiff seeks a Rule 30(b)(6) deposition of Ford. Defendant  
15 seeks to depose the insured in this case. The parties have met and conferred on these issues  
16 and agree an extension of the discovery deadline is necessary.

17 On February 1, 2017, Plaintiff served a Rule 30(b)(6) deposition notice on Ford  
18 regarding several topics. Ford has identified a person to testify on its behalf. However,  
19 Ford's witness cannot be made available for deposition until late March due to prior trial and  
20 deposition obligations and a pre-planned vacation. The parties are currently working to find  
21 an acceptable date. Plaintiff asserts that, without an extension, Plaintiff will suffer prejudice  
22 if forced to litigate this case without the benefit of deposing Ford's PMK.

23 Similarly, Ford served a deposition notice and subpoena on Plaintiffs' insured in this  
24 case, Austin D'Souza, on January 31, 2017. The deposition was scheduled for March 3,  
25 2017. As the insured, Mr. D'Souza is the person whose claims Plaintiff seeks to assert in this  
26 action. However, it now appears that Mr. D'Souza may not be available to attend the  
27 deposition on that day. Plaintiff is currently in contact with Mr. D'Souza to determine his  
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1 availability on March 3, 2017. In the event Mr. D'Souza is unavailable to attend his  
2 deposition on March 3, 2017, the parties will likely need to reschedule his deposition after  
3 the expiration of the March 8, 2017 discovery deadline. Mr. D'Souza's deposition is  
4 necessary for Ford to properly evaluate Plaintiff's claims and damages. Although the parties  
5 have worked diligently to schedule Mr. D'Souza's deposition, good cause exists to modify  
6 the previous scheduling order to allow for an extension to complete his deposition.

7 Finally, Defendant also seeks to depose Helen Schureman, a previous owner of the  
8 subject vehicle. As a previous owner of the vehicle, Ms. Schureman is likely to provide  
9 testimony about any accident, repair or modification of the vehicle during the time she  
10 owned the vehicle. Defendant served a deposition notice and subpoena on January 31, 2017.  
11 The Notice sets Ms. Schureman's deposition for March 3, 2017. However, despite attempts  
12 at multiple addresses and phone numbers, Defendants have been unable to locate and serve  
13 Ms. Schureman. Defendants are currently working to locate Ms. Schureman. In the event she  
14 cannot be located, her deposition may need to be rescheduled beyond the March 8, 2017  
15 discovery deadline. Ms. Schureman's deposition is necessary for Defendant to fully defend  
16 itself at trial. Because Defendant will be prejudiced if forced to litigate the case without the  
17 deposition testimony of Ms. Schureman, good cause exists for the Court to grant the parties'  
18 stipulation to extend the discovery cutoff for 30 days.

19 Because both parties will suffer prejudice if an extension is not granted, good cause  
20 exists for granting an extension of the discovery deadline. The parties do not expect that this  
21 extension will affect the remaining deadlines set by the Court in this action.

22 The parties respectfully request that the Court grant this stipulated request to extend  
23 the discovery deadline, currently set for March 8, by 30 days to for the limited purpose of  
24 completing necessary depositions in this case.

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Dated: February 15, 2017

Respectfully submitted,  
SHOOK HARDY & BACON L.L.P.

By: /s/ Edward B. Gaus  
Andrew L. Chang  
Edward B. Gaus

Attorneys for Defendant  
FORD MOTOR COMPANY

Dated: February 15, 2017

LAW OFFICES OF DEAN APLER

By: /s/ Dean A. Alper (as authorized on 2/15/17)  
Dean A. Alper

Attorney for Plaintiff  
UNIVERSAL NORTH AMERICA INSURANCE  
COMPANY

**ORDER**

In accordance with the foregoing stipulation of the parties, and good cause appearing, the discovery deadline in this case, currently set for March 8, 2017, is hereby extended for 30 days to April 7, 2017.

Dated: February 22, 2017

  
MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE