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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 GIANFRANCO RUFFINO,

11 Plaintiff,

12 v.

13 UNITED STATES OF AMERICA,

14 Defendant.

CASE NO. 2:16-CV-02719-KJM-CKD

STIPULATION AND JOINT REQUEST TO
MODIFY PRETRIAL SCHEDULING ORDER;
ORDER

15
16 COURT: Courtroom 3, 15th Floor
17 JUDGE: Hon. Kimberly J. Mueller

18 Plaintiff Gianfranco Ruffino and Defendant the United States of America jointly stipulate as
19 follows and submit this request to modify the Amended Pretrial Scheduling Order (ECF 11). The
20 purpose of the requested scheduling modification is to permit the Court to resolve the government's
21 anticipated motion to dismiss for lack of subject matter jurisdiction before the parties conclude
22 discovery, including expert discovery.

23 The Court previously entered a scheduling order that contemplated two phases of discovery, with
24 the first phase focused on fact discovery and jurisdictional issues, and the second phase focused on
25 damages issues. *See* ECF 11 at 2. The second phase of discovery was scheduled to close on March 30,
26 2018. Due to difficulty scheduling certain fact witnesses for depositions because of their firefighting
27 responsibilities, the parties requested and the Court approved a modification to the scheduling order to
28 combine both phases of discovery into a single phase, closing on March 30, 2018. ECF 13.

As previously noted, the government intends to file a motion to dismiss for lack of subject matter
jurisdiction under the FTCA. *See* ECF 11 at 2. The current scheduling order requires the government to

1 file its jurisdictional motion by the close of fact discovery. *Id.*

2 The parties agree that the Court's ruling on the anticipated jurisdictional motion would assist
3 them as they complete discovery, including expert discovery. If the Court grants the motion, it may be
4 dispositive of the case, which may eliminate the need to undertake certain discovery. If the Court denies
5 the motion in whole or in part, the ruling may help define the issues for remaining discovery.
6 Accordingly, the parties respectfully request that the Court modify the schedule as specified below to
7 allow time for the Court to rule on the jurisdictional motion before completion of discovery.

8 Proposed Schedule:

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| | |
|--|-------------------|
| 10 Deadline for government to file its jurisdictional motion; discovery stayed pending resolution of the motion | March 23, 2018 |
| 11 Hearing on jurisdictional motion | April 20, 2018 |
| 12 Fact discovery resumes | July 9, 2018 |
| 13 Fact discovery cutoff | October 5, 2018 |
| 14 Parties submit expert reports | October 26, 2018 |
| 15 Parties submit supplemental expert reports | November 16, 2018 |
| 16 Expert discovery cutoff | December 21, 2018 |
| 17 Dispositive motions hearing deadline | February 15, 2019 |
| 18 Joint pretrial conference statement and motions in limine due | May 3, 2019 |
| Final pretrial conference | May 24, 2019 |
| Trial briefs | June 24, 2019 |
| Bench trial | July 8, 2019 |

19 Dated: January 19, 2018

McGREGOR W. SCOTT
United States Attorney

21 By: /s/ Philip A. Scarborough
PHILIP A. SCARBOROUGH
Assistant United States Attorney
Attorneys for Defendant the
United States of America

24 Dated: January 19, 2018

CASEY GERRY SCHENK
FRANCAVILL BLATT &
PENFIELD, LLP

27 By: /s/ Angela J. Chun

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Angela Jae Chun
Attorneys for Plaintiff
Gianfranco Ruffino


ORDER

GOOD CAUSE APPEARING, the parties' joint stipulation and request to modify the Amended Scheduling Order is APPROVED. The case shall be governed by the schedule set forth below. The parties shall refer to the Amended Pretrial Scheduling Order (ECF 11) for the Court's other pretrial instructions.

Schedule:

| | |
|---|-------------------|
| Deadline for government to file its jurisdictional motion; discovery stayed pending resolution of the motion | March 23, 2018 |
| Hearing on jurisdictional motion | April 20, 2018 |
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| Parties submit supplemental expert reports | November 16, 2018 |
| Expert discovery cutoff | December 21, 2018 |
| Dispositive motions hearing deadline | February 8, 2019 |
| Joint pretrial conference statement and motions in limine due | May 10, 2019 |
| Final pretrial conference | May 31, 2019 |
| Trial briefs | June 24, 2019 |
| Bench trial | July 8, 2019 |

DATED: January 23, 2018


UNITED STATES DISTRICT JUDGE