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13 **UNITED STATES DISTRICT COURT**
 14 **EASTERN DISTRICT OF CALIFORNIA**
 15 **SACRAMENTO DIVISION**

16 ALLIED WORLD INSURANCE COMPANY,
 a Delaware corporation,
 17
 Plaintiff,
 18
 v.
 19 NEW PARADIGM PROPERTY
 MANAGEMENT, LLC, a California
 20 Corporation, and DOES 1 through 20, inclusive,
 21
 Defendants.

Case No. 2:16-CV-02992-MCE-GGH

**Ex Parte Motion for Request to Modify
 Pretrial Order By Stipulation to Extend
 Certain Deadlines By An Additional Ninety
 Days to Permit Mediation Under the VDRP
 Program**

22
 23 NEW PARADIGM PROPERTY
 MANAGEMENT, LLC, a California
 Corporation,
 24
 Plaintiff,
 25
 v.
 26 ALLIED WORLD INSURANCE COMPANY,
 27 a Delaware corporation, and DOES 1 through
 200, inclusive
 28
 Defendants.

Case No. 2:17-cv-00552-KJM-CKD
 (Administratively and consolidated with case
 2:16-CV-02992-MCE-GGH)

1 Pursuant to Local Rule 143 and Federal Rule of Civil Procedure (FRCP) 16(b)(4),
2 Defendant, NEW PARADIGM PROPERTY MANAGEMENT, LLC (hereinafter Defendant),
3 and Plaintiff, ALLIED WORLD INSURANCE COMPANY (hereinafter Plaintiff) by and
4 through the undersigned counsel, hereby jointly stipulate and request this Court to issue an Order
5 to modify the Initial Pretrial Scheduling Order (ECF No. 3) (hereinafter “Initial Pretrial
6 Scheduling Order” or “Pretrial Order”) for case 2:16-CV-02992-MCE-GGH, by extending the
7 dates for conclusion of expert witness discovery and the deadline for filing of dispositive
8 motions by 90 days from the current deadline of January 29, 2019 to April 29, 2019, with all
9 other deadlines to remain as governed by the Initial Pretrial Scheduling Order.
10

11 The purpose of this request is to permit the parties to engage in mediation under the
12 VDRP program and to avoid the expense of anticipated lengthy expert depositions and/or the
13 filing of potential dispositive motions pending the results of mediation. The mediation would
14 need to occur in February or March of 2019—as the principal of one of the parties will be out of
15 the country through the first week of February.

16 The Initial Pretrial Scheduling Order allocated 365 days for fact discovery until
17 December 22, 2017 (ECF No. 3). Discovery including initial Rule 26(f) disclosures was then
18 placed on hold pending ruling on Defendant’s Motion to Compel Arbitration (ECF No. 23),
19 which was denied on September 28, 2017. Shortly after denial of the motion on October 16,
20 2017, the court granted a joint request to extend fact discovery by 120 days to April 20, 2018
21 (ECF No. 28) and by 60 days to June 19, 2018 (ECF No. 35). Fact discovery was later extended
22 to August 3, 2018 (ECF No. 35.)
23

24 The parties have to date diligently engaged in discovery consisting of the exchange
25 of several rounds of very lengthy written discovery, including amended and supplemental
26 responses after meet and confers, and the exchange of several binders of documents concerning
27 the construction project obtained both from the parties and from third parties through subpoena.
28

1 The last of the responses to document production requests was accomplished in early
2 March. Since that exchange and in April and May of 2018, the parties have exchanged additional
3 lengthy rounds of written discovery and produced thousands of pages of additional documents
4 pursuant to follow-up requests. Numerous PMQ and fact witness depositions were taken in the
5 summer of 2018.

6 Following the conclusion of fact discovery, the parties have at great expense
7 designated four experts on the complex construction and suretyship issues, who have exchanged
8 six lengthy reports.

9 The parties jointly believe that it may be productive to mediate at this point prior to
10 incurring the expense of expert deposition discovery and/or the filing of any dispositive motions,
11 and will file a stipulation for referral to the VDRP program—with mediation to occur after the
12 owner of one party returns to the United States in early February. The stipulation would permit
13 the parties to devote resources to settlement rather than to litigation, and is also likely to
14 conserve judicial resources.

15 FRCP 16(b)(4) allows a court to modify a scheduling order upon a showing of “good
16 cause.” According to the Ninth Circuit Court, the “good cause” standard required is primarily
17 concerned with the diligence taken by the party seeking the extension. *Johnson v. Mammoth*
18 *Recreations, Inc*, 975 F.2d 604, 609 (9th Cir. 1992). A court may modify the scheduling order
19 should the given deadlines not be reasonably able to be met, despite diligent efforts. *Jackson v.*
20 *Laureate, Inc.*, 186 F.R.D. 605, 608 (E.D. CA 1999).

21 This Stipulated Request to Modify the Pretrial Order is supported by good cause.
22 The parties hereby respectfully request that this Court modify the Pretrial Order by extending the
23 expert deposition and dispositive motion deadline by an additional ninety days.

24 This would result in the following new deadlines:

25 Expert Deposition Deadline: April 29, 2019.

26 Dispositive Motion Filing Deadline: April 29, 2019

