

1 MATTHEW H. DAWSON (State Bar No. 307350)
mdawson@kslaw.com
2 KING & SPALDING LLP
3 601 South California Avenue
Palo Alto, CA 94304
4 Telephone: +1 650 422 6700
Facsimile: +1 650 422 6800

5 ZACHARY A. MCENTYRE (*pro hac vice*)
6 zmcentyre@kslaw.com

7 MERYL W. ROPER (*pro hac vice*)
mroper@kslaw.com

8 ALLISON HILL WHITE (*pro hac vice*)
awhite@kslaw.com

9 KING & SPALDING LLP
10 1180 Peachtree St., NE
Atlanta, GA 30309
11 Telephone: +1 404 572 4600
Facsimile: +1 404 572 5100

12 Attorneys for Defendant EQUIFAX INFORMATION
13 SERVICES, LLC

14 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

15 DANIEL BRUNO, Individually and on behalf
16 of others similarly situated,

17 Plaintiff,

18 v.

19 EQUIFAX INFORMATION SERVICES,
20 LLC; GENEVA FINANCIAL SERVICES,
INC.; MARK HASSAN; GENEVA
21 MOTORS, INC. d/b/a GENEVA FINANCIAL
SERVICES, ROBERT MCGINLEY,
22 KAMIES ELHOUTY, JOHN MCGINLEY,
ANDY MITCHELL, and REBS SUPPLY,
23 INC. d/b/a REBS MARKETING, INC.,

24 Defendants.

Case No. 2:17-cv-00327-WBS-EFB

**STIPULATED REQUEST AND ORDER
TO MODIFY SCHEDULING ORDER**

25 Pursuant to Local Rule 144, the undersigned parties submit this stipulated request to
26 modify the scheduling order, Dkt. No. [73], as modified on May 3, 2018, Dkt. No. [171], July
27

1 24, 2018, Dkt. No. [218], and October 16, 2018, Dkt. No. [246]. The parties¹ request that all
2 deadlines be extended by 90 days. In support of their request, the parties state as follows:

3 1. This Court entered a Scheduling Order on July 18, 2017 (“Initial Scheduling
4 Order”), which set the discovery deadline for April 13, 2018, the non-dispositive and dispositive
5 motion filing deadlines for July 23, 2018, the pretrial conference on October 9, 2018, and the
6 trial date for December 11, 2018. Dkt. No. [73].

7 2. On May 3, 2018, Judge Brennan entered an order granting Plaintiff’s request to
8 extend the discovery deadline to July 16, 2018. Dkt. No. [171]. Judge Brennan denied Plaintiff’s
9 request to extend the dispositive motions filing deadline, and all other deadlines remained in
10 place. *Id.*

11 3. On July 24, 2018, this Court entered an order granting the parties’ stipulated
12 request to modify the scheduling order. Dkt. No. [218]. The discovery deadline was extended to
13 October 16, 2018, and the deadline for filing a motion for class certification was extended to
14 October 30, 2018. *Id.* The deadline for filing dispositive motions was extended until 30 days
15 following the Court’s ruling on any motion for class certification. *Id.* The pretrial conference was
16 set for April 9, 2019, and trial was set for July 11, 2019. *Id.*

17 4. On October 16, 2018, this Court entered an order granting another stipulated
18 request from Plaintiff and Defendants Equifax, Robert McGinley, and John McGinley to modify
19 the scheduling order.² Dkt. No. [246]. The discovery deadline was extended to December 17,
20
21

22 ¹ The agreed-upon modification requested has been stipulated to by all parties who have
23 appeared except John McGinley. Counsel for Equifax has attempted to reach Mr. McGinley at
24 the only known email address and phone number provided by his former counsel, but did not
receive any response.

25 ² Counsel for Defendants Mark Hassan and Geneva Financial Services, Inc. failed to respond to
26 Plaintiff’s counsel’s attempts to obtain his stipulation to the request. *See* Dkt. No. [245]. The
27 other defendants in this matter had not appeared at that time. *See* Dkt. Nos. [84, 85, 168, 173]
(Clerk’s entries of default as to Defendants REBS Supply, Inc., Andy Mitchell, Geneva Motors,
28 Inc., and Kamies Elhouty); Dkt. No. [251] (October 24, 2018 motion to set aside entry of default
as to Defendants Kamies Elhouty and Geneva Motors, Inc.)

1 2018, and the deadline for filing a motion for class certification was extended to January 14,
2 2019. The pretrial conference and trial dates were not changed.

3 5. The parties have diligently pursued discovery in this case. However, despite their
4 diligent efforts, the parties cannot complete the necessary discovery by the December 17, 2018
5 deadline.

6 6. Equifax needs additional time to depose four witnesses: Defendant Mark Hassan,
7 Defendant Kamies Elhouty, non-party John Schwartz, and a representative of non-party Hanlees
8 Nissan. These witnesses have recently provided or may provide (in the case of Hanlees Nissan)
9 declarations to Plaintiff.

10 7. Equifax has been diligently working to take these depositions over the last two
11 months, but has been unable to do so because of the unavailability of the witnesses. Most
12 notably, Equifax's counsel traveled from Atlanta, Georgia to Los Angeles, California to take the
13 noticed deposition of Mark Hassan at the agreed date, time, and location, but Mr. Hassan failed
14 to appear.

15 8. Equifax understands that all four witnesses, including Mr. Hassan, will
16 voluntarily appear in early 2019 and Equifax is actively working to confirm dates for those
17 depositions.

18 9. Plaintiff also needs additional time to complete discovery. On December 5, 2018,
19 Plaintiff served 19 third-party subpoenas for documents, and may require additional time to
20 obtain the documents requested.

21 10. Plaintiff has also requested a 90-day discovery extension to allow Plaintiff to
22 discover the administrator, executor, or distribute(s) of Robert McGinley's estate. *See* Dkt. No.
23 [265].

24 11. While completing the outstanding discovery, Equifax and Plaintiff have agreed to
25 discuss a possible resolution of this matter. Additional time would facilitate those discussions
26 before Plaintiff moves for class certification or Equifax moves for summary judgment.

1 12. Further, Defendants Kamies Elhouty and Geneva Motors, Inc. require additional
2 time to complete discovery, as they have only recently appeared in this case, and their Answer
3 was filed on December 10, 2018. *See* Dkt. No. [266].

4 13. In light of the foregoing, the parties agree and stipulate to further modifications to
5 the Court's scheduling order as follows:

- 6 a. The deadline for completing fact discovery shall be extended from December
7 17, 2018 until March 18, 2019;
- 8 b. The deadline for filing a motion for class certification shall be extended from
9 January 14, 2019 until April 14, 2019;
- 10 c. The pretrial conference currently set for April 9, 2019 shall be continued until
11 July 8, 2019;
- 12 d. The trial currently set for June 11, 2019 shall be continued until September 9,
13 2019

14 14. The parties agree and stipulate that the deadline for filing dispositive motions
15 shall remain 30 days following the Court's ruling on any motion for class certification.

16 15. By entering into this stipulation, the parties do not waive any objections to
17 pending or future discovery requests that are unrelated to the discovery deadline.

18 16. Nothing shall restrict any party from filing a dispositive motion prior to the
19 deadline set forth above.

20
21 DATED: December 12, 2018

KING & SPALDING LLP

22 By: /s/ Zachary A. McEntyre
23 ZACHARY A. MCENTYRE (*pro hac vice*)
24 KING & SPALDING LLP
25 1180 Peachtree St., NE
26 Atlanta, GA 30309
27 Telephone: +1 404 572 4600
28 Facsimile: +1 404 572 5100
29 Email: zmcentyre@kslaw.com

Attorney for Defendant EQUIFAX
INFORMATION SERVICES, LLC

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/s/ Joseph Messer (w/ express permission)
Joseph Messer (pro hac vice)
Messer Strickler, Ltd.
225 W. Washington St., Suite 575
Chicago, IL 60602
(312) 334-3442 (direct)
(312) 334-3473 (fax)
jmesser@messerstrickler.com

Attorney for Plaintiff DANIEL BRUNO

/s/ Neil C. Evans (w/ express permission)
Neil C. Evans
Law Office of Neil C. Evans
13351 D Riverside Drive
Suite 612
Sherman Oaks, CA 91423
818-802-8333
Fax: 213-406-1231
Email: evanstnt@aol.com

Attorney for Defendants GENEVA
FINANCIAL SERVICES, LLC AND
MARK HASSAN

/s/ Craig R. Smith (w/ express permission)
Craig R. Smith
Smith Law Firm
21550 Oxnard Street, Suite 760
Woodland Hills, California 91367
Telephone: (818) 703-6057
Fax: (818) 703-6058

Attorney for Defendants GENEVA
MOTORS, INC. and KAMIES ELHOUTY


1 **ORDER**

2
3 **IT IS SO ORDERED:**

4
5 1. The Court modifies the Scheduling Order as follows:

- 6 a. The deadline for completing fact discovery shall be extended from December
7 17, 2018 until March 18, 2019;
- 8 b. The deadline for filing a motion for class certification shall be extended from
9 January 14, 2019 until **April 15, 2019;**
- 10 c. The pretrial conference currently set for April 9, 2019 shall be continued until
11 **August 19, 2019 at 1:30 PM;**
- 12 d. The trial currently set for June 11, 2019 shall be continued until **October 1,**
13 **2019 at 9:00 AM**
- 14 e. The deadline for filing dispositive motions shall remain 30 days following the
15 Court's ruling on any motion for class certification.

16 Dated: December 13, 2018

17 
18 **WILLIAM B. SHUBB**
19 **UNITED STATES DISTRICT JUDGE**