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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROGER DRIVER,  
  
                                Plaintiff,  
  
                v.  
  
PAPÉ TRUCKS, INC., ET AL.,  
  
                                Defendant

2:17-cv-01968-KJN  
  
ORDER

Plaintiff, Roger Driver, filed this diversity action against defendant Pape Trucks, Inc. for negligence. (ECF No. 1.) Defendant’s motion to reopen expert discovery, filed on June 15, 2023, is presently pending before this court and is set for a hearing on July 25, 2023. (ECF No. 87.)

Under Local Rule 230(c), any opposition to this motion was to be filed no later than June 29, 2023. L.R. 230(c). That date has passed, and no opposition was received. However, as the court requires input from the parties on whether to reopen expert discovery, the court hereby orders that all non-moving parties<sup>1</sup> inform the court of their position on defendant’s motion

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<sup>1</sup> Jomar Investments, Inc (third-party defendant) and Accident Fund Insurance Company of America (plaintiff-in-intervention) are also parties to this case.

1 within fourteen days of this order.<sup>1</sup> Defendant shall file a reply brief within ten days of the non-  
2 moving parties' filing.


3 In the forthcoming briefing, the parties shall address the following: 1) whether trial is  
4 imminent, 2) whether the request is opposed, 3) whether the non-moving party would be  
5 prejudiced, 4) whether the moving party was diligent in obtaining discovery within the guidelines  
6 established by the court, 5) the foreseeability of the need for additional discovery in light of the  
7 time allowed for discovery by the district court, and 6) the likelihood that the discovery will lead  
8 to relevant evidence. City of Pomona v. SQM N.A. Corp., 866 F.3d 1060, 1066 (9th Cir. 2017)  
9 (listing factors which the court must consider in deciding motion to amend a scheduling order to  
10 reopen discovery). Apart from the question of diligence, defendant's motion fails to address any  
11 of these factors. (See ECF No. 87.)

12 **ORDER**

13 Accordingly, it is hereby ORDERED that:

- 14 1. The July 25, 2023 hearing on defendant's motion is vacated;
- 15 2. Within fourteen days of this order, non-moving parties shall respond to defendant's  
16 motion by informing the court of their position(s) on the motion; and
- 17 3. Within ten days of non-moving parties' response, defendant shall submit a reply brief.

18 Dated: July 17, 2023

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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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