

1 Matthew Delinko (Bar No. 302832)
Bauman Loewe Witt & Maxwell, PLLC
2 8765 East Bell Road, Suite 210
Scottsdale, Arizona 85260
3 Telephone: (480) 502-4664
Facsimile: (480) 502-4774
4 e-mail mdelinko@blwmlawfirm.com

5 Attorneys for Plaintiff Sentinel Insurance Company

6 Kristian Moriarty (Bar No. 291557)
kmoriarty@hbblaw.com
7 Haight Brown & Bonesteel LLP
500 Capitol Mall, Suite 2150
8 Sacramento, California 95814
Telephone: 916.702.3200
9 Facsimile: 916.570.1947

10 Attorneys for Defendant
THE HOME DEPOT U.S.A., INC.
11 (erroneously sued herein as “The Home
Depot, Inc.”) and NIAGARA
12 CONSERVATION CORPORATION

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

16 SENTINEL INSURANCE COMPANY,
17 LTD., individually and as subrogee for its
insured, Vaughn Kearbey dba Vaughn
18 Kearbey, DDS,

19 Plaintiff,

20 v.

21 THE HOME DEPOT, INC., a Delaware
corporation; and DOES 1 - 20, inclusive,

22 Defendants.
23

Case No. 19-CV-01760-WBS-DMC

**AMENDED JOINT STIPULATION TO
MODIFY SCHEDULING ORDER AS
TO NON-EXPERT DISCOVERY
DEADLINE, AND EXPERT
DISCOVERY DEADLINES ONLY
AND ORDER THEREON**

Assigned for All Purposes to:
Hon. William B. Shubb

Action Filed: August 8, 2019
Trial Date: December 27, 2021

24 TO THE HONORABLE COURT:

25 IT IS HEREBY STIPULATED by and between the parties, Plaintiff, Sentinel
26 Insurance Company, Ltd. (“Plaintiff”), and Defendants, The Home Depot U.S.A., Inc. and
27
28

1 Niagara Conservation Corporation (“Defendants”), by and through their attorneys of
2 record, as follows:

3 WHEREAS good cause exists for granting this Stipulation to Modify the
4 Scheduling Order previously entered by this Court to Continue the Non-Expert Discovery,
5 and expert discovery deadlines only:

6 1. The Modified Scheduling Order, entered May 21, 2021, sets for the deadline
7 for completion of non-expert discovery as July 14, 2021, the due date for Plaintiff’s expert
8 disclosure as July 23, 2021, the deadline for Defendant’s expert disclosure as August 27,
9 2021, and the rebuttal expert disclosure deadline as September 24, 2021. (5/24/2021 Dkt.
10 Entry No. 28.)

11 2. Discovery is ongoing. Depositions have not been taken but the parties are
12 working to arrange necessary percipient witness depositions, while they endeavor to
13 resolve the case through settlement negotiations. Plaintiff and Defendants have each
14 served one set of discovery requests, to which all parties have responded. The current
15 deadline for completion of non-expert discovery is July 14, 2021.

16 3. At present, the parties and the Court continue to face the unprecedented and
17 ongoing COVID-19 pandemic with hopes that it will continue to improve with the
18 availability of vaccines and continued compliance with health and government directives.

19 4. Despite the limited re-openings across the state, the parties are still
20 concerned with the wellbeing of all witnesses, counsel, court reporters, and staff that
21 would need to participate in any depositions, inspections, or potential mediations, and are
22 currently in the process of substantially limiting interactions with an eye towards public
23 health.

24 5. Parties remain optimistic that after further ongoing discovery and
25 investigation, the case can be resolved through mediation and if need be, will work to
26 create contingency plans for possible telephonic depositions and/or mediation once the
27 parties have exhausted settlement efforts
28

1 6. The Parties met and conferred and agreed to stipulate to continue the present
2 Non-Expert Discovery Deadline, and expert discovery deadlines, in anticipation of the
3 need to continue in their discovery efforts, make any special provisions to complete
4 discovery given the ongoing pandemic, and hopefully resolve the case informally or
5 through mediation.

6 7. The current Non-Expert Discovery deadline is July 14, 2021;

7 8. The current Expert Disclosure/Exchange of Report deadlines are as follows:

8 a. Plaintiff: July 23, 2021;

9 b. Defendant: August 27, 2021;

10 c. Rebuttal: September 24, 2021;

11 9. The current Pre-Trial Conference is October 25, 2021, 1:30 p.m.;

12 10. The current Jury Trial is December 28, 2021, at 9:00 a.m.

13 11. The new cut-off date for non-expert discovery the above-referenced is sought
14 to allow all parties time to exhaust their efforts to resolve the case by settlement through
15 informal discussion or mediation, and conduct the necessary remaining fact and expert
16 discovery prior to trial;

17 12. There have been two (2) prior requests for continuances of scheduling order
18 dates in this matter; however, the parties do not believe a continuance of the present rial
19 date is necessary at this time.

20 13. Since the last request, counsel for Defendants arranged for its expert witness to
21 travel to Sacramento in order to perform an inspection of the toilet that forms the subject of
22 the litigation, perform such inspection, and confer with counsel for defendants regarding
23 same. That was accomplished on June 24, 2021.

24 14. The parties are now endeavoring to negotiate a resolution of this action by
25 informal settlement and, if necessary, private mediation.

26

27

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS THEREFORE STIPULATED AND AGREED by and between the parties that the following proposed schedule govern the non-expert discovery deadline, and the expert discovery deadlines imposed for this case:

Type of Appearance	Current Stipulated Schedule	Stipulated Proposed Case Management Schedule
Non-Expert discovery cut-off	July 14, 2021	August 27, 2021
Plaintiff's Expert Disclosure	July 23, 2021	August 27, 2021
Defendants' Expert Disclosure	August 27, 2021	September 24, 2021
Rebuttal Expert Disclosure	September 24, 2021	October 1, 2021

Dated: July 16, 2021 HAIGHT BROWN & BONESTEEL LLP

By: /s/ Kristian B. Moriarty
 Valerie A. Moore
 Attorneys for Defendant
 THE HOME DEPOT U.S.A., INC. (erroneously sued herein
 as "The Home Depot, Inc.") and NIAGARA
 CONSERVATION CORPORATION

Dated: July 16, 2021 BAUMAN LOEWE WITT & MAXWELL, PLLC

By: /s/ Matthew E. Delinko
 Matthew E. Delinko
 Attorneys for Plaintiff
 SENTINEL INSURANCE COMPANY, LTD.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

The Court having considered the foregoing stipulation and good cause appearing,
IT IS HEREBY ORDERED that:

1. Non-Expert discovery cut-off is reset for August 27, 2021.
2. Plaintiff’s Expert Disclosure is reset for August 27, 2021.
3. Defendants’ Expert Disclosure is reset for September 24, 2021.
4. Rebuttal Expert Disclosure is reset for October 1, 2021.

IT IS SO ORDERED.

Dated: July 16, 2021



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE