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 12 MALCOLM & CISNEROS

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

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 16 SELENE FINANCE LP,
 17 Plaintiff,
 18 v.
 19 COUNTY OF SACRAMENTO; JIM
 20 COOPER, solely in his official capacity as
 21 the SHERIFF OF SACRAMENTO COUNTY;
 MALCOLM & CISNEROS, a California Law
 Corporation; and DOES 1-25,
 22 Defendants.

Case No. 2:23-cv-01124-DJC-CKD
Assigned to District Judge Daniel J. Calabretta
**STIPULATED MOTION TO MODIFY
 DISCOVERY DEADLINES AND ORDER**
 Complaint Filed: November 18, 2020
 Case Removed: June 12, 2023
 Trial: January 26, 2026

1 Pursuant to Local Rules 137, 143, Federal Rules of Civil Procedure 5, 16(b)(4), 83
2 and Judge Calabretta's Standing Order in Civil Actions I(A), Plaintiff SELENE FINANCE
3 LP ("Plaintiff" or "Selene") and Defendant MALCOLM & CISNEROS, A LAW
4 CORPORATION ("Defendant") (collectively, the "Parties) by and through their respective
5 counsel, respectfully submit this stipulated motion requesting that the discovery deadlines
6 be modified without oral argument as follows:

- 7 1. Fact Discovery extended from November 15, 2024 to January 17, 2025.
- 8 2. Expert disclosure extended from December 13, 2024 to February 21, 2025.
- 9 3. Rebuttal experts extended from January 10, 2025 to March 14, 2025.
- 10 4. Close of Expert Discovery extended from February 7, 2025 to April 11,
11 2025.

12 To support this stipulated motion, the parties provide a Joint Proposed Order, as
13 required by Local Rule 137.

14 "[D]istrict judges have broad discretion to manage discovery and to control the
15 course of litigation under Federal Rule of Civil Procedure 16." *Avila v. Willits Env't*
16 *Remediation Trust*, 633 F.3d 828, 833 (9th Cir. 2011). In general, the pretrial scheduling
17 order can only be modified "upon a showing of good cause." *Zivkovic v. S. Cal. Edison Co.*,
18 302 F.3d 1080, 1087 (9th Cir. 2002) (quoting *Johnson v. Mammoth Recreations, Inc.*, 975
19 F.2d 604, 608 (9th Cir. 1992)); accord Fed. R. Civ. P. 16(b)(4). "The pretrial schedule may
20 be modified 'if it cannot reasonably be met despite the diligence of the party seeking the
21 extension....'" *Zivkovic*, 302 F.3d at 1087 (quoting *Johnson*, 975 F.2d at 609).

22 There is good cause to modify the non-expert and expert discovery cutoffs in this
23 litigation. Malcolm & Cisneros did not answer the complaint until November 7, 2023.
24 Shortly thereafter, the parties including the County of Sacramento and Jim Cooper in his
25 official capacity as the Sheriff of Sacramento, began settlement discussions. These
26 discussions included a January 2024 settlement conference with Magistrate Judge
27 Jeremy D. Peterson. Following that conference, the parties to the litigation continued to
28 refrain from discovery to discuss settlement.

1 To date, these discussions have resulted in the County and Sheriff entering into a
2 settlement agreement with Plaintiff. Plaintiff and Malcolm & Cisneros have continued to
3 engage in settlement discussions, including a settlement call with one another last week.
4 These discussions have narrowed the gap between the parties.

5 Although the parties have made initial disclosures and served some written
6 discovery, they have refrained from embarking on deposition and third-party discovery as
7 they discussed settlement. The parties anticipate beginning such discovery in the next
8 few weeks if they cannot reach settlement.

9 The Parties will suffer substantial harm and prejudice absent a continuance.
10 Notwithstanding the Parties' diligent efforts, in light of ongoing settlement discussion, the
11 current discovery cutoffs cannot reasonably be met. Accordingly, the Parties jointly
12 request that the discovery deadlines be modified as set forth above.

13 **JUDGE CALABRETTA'S CIVIL STANDING ORDER I(C) JOINT CERTIFICATION**

14 Shawn M. Krogh and John B. Sullivan, respective counsel of record for the Parties,
15 pursuant to U.S.C. 28 § 1746, hereby affirm that we are over 18 years of age and are
16 competent to make the following declaration:

17 1. Shawn M. Krogh is counsel for Plaintiff in the above-captioned action and is a
18 partner with the law firm of Krogh & Decker LLP, attorney of record for Plaintiff. By and
19 through this representation, Mr. Krogh has personal knowledge of the matters set forth
20 herein and, if called upon to testify, has represented that he could and would testify
21 competently thereto.

22 2. John B. Sullivan is counsel for Defendant in the above-captioned action and is a
23 partner with the law firm of Long & Levit LLP, attorney of record for Defendant. By and
24 through this representation, Mr. Sullivan has personal knowledge of the matters set forth
25 herein and, if called upon to testify, has represented that he could and would testify
26 competently thereto.

27 3. On April 12, 2024, the Court entered the Scheduling Order setting certain
28 deadlines for discovery in this matter.

1 4. The Scheduling Order set fact discovery to be completed no later than November
2 15, 2024.

3 5. The Scheduling Order set all expert discovery to be completed no later than
4 February 7, 2025.

5 6. The Scheduling Order set all dispositive motions, except motions for
6 continuances, temporary restraining orders, or other emergency applications, to be filed on
7 or before May 23, 2025 and noticed for hearing before Judge Calabretta on July 10, 2025
8 at 1:30 p.m.

9 7. The Court set the final pretrial conference for November 20, 2025 at 1:30 p.m.

10 8. The Parties have met and conferred regarding this request and have reached the
11 agreement set forth above.

12 9. In light of the above, the Parties jointly and respectfully request that the Court
13 modify all subsequent deadlines as set forth in the Proposed Order.

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Respectfully submitted,

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Dated: September 23, 2024

KROGH & DECKER, LLP

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/s/ Marie C. Avery

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SHAWN M. KROGH
Attorneys for Plaintiff
SELENE FINANCE, LP

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Dated: September 23, 2024

LONG & LEVIT LLP

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/s/ John B. Sullivan

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JOHN B. SULLIVAN
Attorneys for Defendant
MALCOLM & CISNEROS

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ORDER

Having found good cause exists pursuant to FRCP 16(b)(4), the Court GRANTS the Parties' request to modify the discovery deadlines as follows:

1. Fact Discovery extended from November 15, 2024 to January 17, 2025.
2. Expert disclosure extended from December 13, 2024 to February 21, 2025.
3. Rebuttal experts extended from January 10, 2025 to March 14, 2025.
4. Close of Expert Discovery extended from February 7, 2025 to April 11, 2025.

IT IS SO ORDERED.

Dated: September 24, 2024

/s/ Daniel J. Calabretta

THE HONORABLE DANIEL J. CALABRETTA
UNITED STATES DISTRICT JUDGE