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18
 19 UNITED STATES DISTRICT COURT
 20 NORTHERN DISTRICT OF CALIFORNIA
 21 SAN FRANCISCO DIVISION

| | | | |
|----|----------------------------------|---|-------------------------------------|
| 22 | MALINDA DOTSON, |) | No. C 08-04291 SI |
| 23 | |) | |
| 24 | Plaintiff, |) | STIPULATION AND [PROPOSED] |
| 25 | v. |) | ORDER TO MODIFY THE PRETRIAL |
| 26 | UNITED STATES OF AMERICA, et al. |) | AND TRIAL SCHEDULE |
| 27 | Defendant. |) | |
| 28 | _____ |) | |

STIPULATION AND [PROPOSED] ORDER - C 08-04291 SI

1 The parties in this case respectfully request modification of the existing Scheduling
2 Order as follows:

3 WHEREAS, pursuant to the Order entered by this Court on August 24, 2010, pursuant to
4 Stipulation of the Parties ("Scheduling Order"), expert disclosures were due on September 24,
5 2010;

6 WHEREAS, on September 24, 2010, the Federal Defendant served its expert disclosures
7 and written reports for its retained experts timely and consistent with Rule 26(a)(2)(B) of the
8 Federal Rules of Civil Procedure and the Standing Order of this Court;

9 WHEREAS, the Plaintiff served expert disclosures, but failed to provide a written report
10 for her retained expert as required by Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure,
11 and the Individual Defendants likewise served expert disclosures, but failed to provide a written
12 report as required by Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure for retained
13 experts;

14 WHEREAS, on September 27, 2010, the Federal Defendant sent written correspondence
15 to counsel for Plaintiff requesting written reports as required by Rule 26(a)(2)(B) of the Federal
16 Rules of Civil Procedure by October 8, 2010, but that request was unanswered;

17 WHEREAS, on or about September 27, 2010, the Federal Defendant communicated
18 telephonically with counsel for the Individual Defendants to request a written expert report;

19 WHEREAS, on October 13, 2010, the Federal Defendant sent a second written
20 correspondence to counsel for Plaintiff and counsel for the Individual Defendants requesting
21 written reports as required by Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure and was
22 told the reports were forthcoming, but no exact date was given although one was requested;

23 WHEREAS, on October 22, 2010, the Federal Defendant was informed that a written
24 expert report from Plaintiff's retained expert would be provided on October 25, 2010, and
25 counsel for the Individual Defendants requested a scheduling conference call due to a death in
26 her practice;

27 WHEREAS, the written report from Plaintiff's expert was not provided until October 27,
28 2010, and where Plaintiff's expert reviewed the reports submitted by the Federal Defendant on

1 September 24, 2010;

2 WHEREAS, on October 29, 2010, the expert for the Individual Defendants provided his
3 written report;

4 WHEREAS, the parties met and conferred telephonically on October 26, 2010, and have
5 agreed to and respectfully request a modification in the pretrial and trial schedule in this action as
6 follows:

7 The Federal Defendant's experts shall have until December 10, 2010 to provide rebuttal
8 and or supplemental written reports; the close of expert discovery shall be January 28, 2011; the
9 last day to file a dispositive motion shall be March 4, 2011, and the last day for hearing on
10 dispositive motions shall be April 15, 2011; the settlement conference currently scheduled for
11 November 17, 2010 shall be continued to the week of February 28, 2011, and reassigned to a
12 Magistrate Judge located in San Francisco, California for the convenience of Plaintiff; the trial
13 shall be continued to June 13, 2011.

14 IT IS SO STIPULATED

15 DATED: October 29, 2010

Respectfully submitted,

16 MELINDA HAAG
17 United States Attorney

/s/ Melissa Brown

18 _____
19 MELISSA K. BROWN
20 MICHAEL T. PYLE
Assistant United States Attorney

21 DATED: October 29, 2010

LAW OFFICES OF JAMES A ZITO,

22 /s/ James Zito

23 _____
24 JAMES A. ZITO
Attorneys for Plaintiff, Malinda Dotson

25 DATED: October 29, 2010

MITCHELL, BRISSO, DELANEY & VRIEZE,

26 /s/ Nancy Delaney

27 _____
28 NANCY K. DELANEY
Attorneys for Individual Defendants,
Zazueta, Wallace, Hamreus and Strachan

~~PROPOSED~~ ORDER

Pursuant to stipulation of the parties, the Federal Defendant's experts shall have until December 10, 2010 to provide rebuttal and or supplemental written reports; the close of expert discovery shall be January 28, 2011; the last day to file a dispositive motion shall be March 4, 2011, and the last day for hearing on dispositive motions shall be April 15, 2011; the settlement conference currently scheduled for November 17, 2010 shall be continued to the week of February 28, 2011, and reassigned to a Magistrate Judge located in San Francisco, California for the convenience of Plaintiff; the trial shall be continued to June 13, 2011.

SO ORDERED

DATED: 11/01/10



HONORABLE SUSAN ILLSTON
United States District Court Judge