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 WELLNESS SUPPORT NETWORK, INC.,
 15 ROBERT HELD, and
 16 ROBYN HELD

17
 18 UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 19 SAN FRANCISCO DIVISION

20 FEDERAL TRADE COMMISSION,
 21
 Plaintiff,
 22
 v.
 23
 24 WELLNESS SUPPORT NETWORK, INC., a
 corporation, ROBERT HELD, individually and
 25 as an officer of Wellness Support Network,
 Inc., and ROBYN HELD, individually and as
 26 an officer of Wellness Support Network, Inc.,
 27
 Defendants.
 28

Case No.: 3:10-cv-04879-JCS

**JOINT STIPULATION TO REVISE
 SCHEDULE; DECLARATION OF
 ANDREW S. ITTLEMAN IN SUPPORT**

Courtroom G, 15th Floor
 Judge: Hon. Joseph C. Spero

1 **A. INTRODUCTION AND PROCEDURAL HISTORY**

2 Expert discovery is complete. On July 5, 2013, Plaintiff filed its Motion to Exclude Expert
3 Testimony of Defendants' Expert Dr. M. Arthur Charles. (Dkt. #119). Currently, Defendants'
4 response to Plaintiff's Motion is due July 19, 2013 and Plaintiff's reply is due July 26, 2013. The
5 hearing on Plaintiff's Motion to Exclude is scheduled to take place on August 16, 2013.
6

7 Within its Motion to Exclude, Plaintiff cites at length to Dr. Charles's deposition. However,
8 Defendants did not receive the transcript of Dr. Charles's deposition until July 10, 2013, five days
9 after Plaintiff's Motion to Exclude was filed. As a result, Defendants have requested and Plaintiff has
10 agreed to a brief extension of deadlines. Accordingly, pursuant to L.R. 6-2 and L.R. 7-12, the parties
11 respectfully request that the Court revise the schedule of this case as set forth below. The proposed
12 time modifications would extend the deadlines for Defendants' response and Plaintiff's reply by one
13 week. This modification would not affect the hearing date scheduled for Plaintiff's Motion to
14 Exclude nor any other deadlines currently set in this matter.
15

16 **B. PROPOSED REVISED SCHEDULE**

17 The parties propose the following modifications to the current schedule for this case:

- 18
- 19 1. Defendants' Response to Plaintiff's Motion to Exclude shall be filed by July 26, 2013.
 - 20 2. Plaintiff's Reply to Defendants' Response shall be filed by August 2, 2013.

21 **SO STIPULATED**

22 Dated: July 15, 2013

FUERST ITTLEMAN, PL

HOLMES & USOZ, LLP

25 By: /s/ Andrew S. Ittleman

26 Andrew S. Ittleman

Mitchell S. Fuerst

27 Attorneys for Defendants, WELLNESS

SUPPORT NETWORK, ROBERT HELD, and

28 ROBYN HELD

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By: /s/ Leslie Holmes
Leslie Holmes
Attorney for Defendants, WELLNESS
SUPPORT NETWORK, ROBERT HELD, and
ROBYN HELD

Dated: July 15, 2013

FEDERAL TRADE COMMISSION

By: /s/ Laura Fremont
Laura Fremont
Kenneth H. Abbe
Attorney for Plaintiff, FEDERAL TRADE
COMMISSION

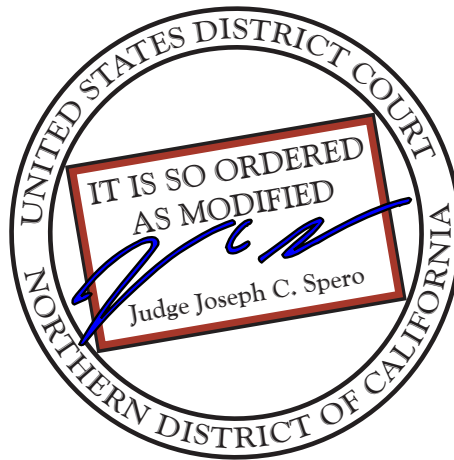
~~PURSUANT TO STIPULATION, IT IS SO ORDERED~~

~~DATED: _____~~

~~_____
JOSEPH C. SPERO
UNITED STATES MAGISTRATE JUDGE~~

The Court GRANTS the briefing schedule on the Motion to Exclude. The hearing on the Motion to Exclude, previously set for 8/16/13 at 9:30 AM, is re-set for Sept. 27, 2013 at 9:30 AM. The Motion for Summary Judgment shall be filed and served on or before Nov. 1, 2013. The opposition shall be due on Nov. 15, 2013. The reply brief shall be due on Nov. 22, 2013. Hearing on the Motion for Summary Judgment, previously set for Nov. 8, 2013, at 9:30 AM, has been re-set for Dec. 20, 2013 at 9:30 AM.

Dated: July 18, 2013



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**DECLARATION OF ANDREW S. ITTLEMAN
IN SUPPORT OF JOINT STIPULATION TO REVISE SCHEDULE**

I, ANDREW S. ITTLEMAN, declare as follows:

1. I am counsel for Wellness Support Network, Inc. (“Wellness”), Robert Held and Robyn Held, (hereinafter collectively referred to as “Defendants”), Defendants in the above-captioned action. I make this Declaration in support of the foregoing Joint Stipulation to Revise Schedule. I have personal knowledge of each of the following facts, and would and could competently testify thereto if called upon to do so in a court of law.

2. **Reasons for the requested enlargement of time (Local Rule 6-2(a)(1)):** On July 5, 2013, Plaintiff filed its Motion to Exclude Expert Testimony of Defendants’ Expert Dr. M. Arthur Charles. (Dkt. #119). Currently, Defendants’ response to Plaintiff’s Motion is due July 19, 2013 and Plaintiff’s reply is due July 26, 2013. The hearing on Plaintiff’s Motion to Exclude is scheduled to take place on August 16, 2013.

Within its Motion to Exclude, Plaintiff cites at length to Dr. Charles’s deposition. However, Defendants did not receive the transcript of Dr. Charles’s deposition until July 10, 2013, five days after Plaintiff’s Motion to Exclude was filed. As a result, Defendants have requested and Plaintiff has agreed to a brief extension of deadlines. Accordingly, pursuant to L.R. 6-2 and L.R. 7-12, the parties respectfully request that the Court revise the schedule of this case as set forth below. The proposed time modifications would extend the deadlines for Defendants’ response and Plaintiff’s reply by one week. This modification would not affect the hearing date scheduled for Plaintiff’s Motion to Exclude nor any other deadlines currently set in this matter.

3. **Disclosure of all previous time modifications (Local Rule 6-2(a)(2)):** The Plaintiff filed its Complaint (Dkt #1) in this matter on October 28, 2010. Defendants’ initial deadline to respond to the Complaint was November 26, 2010. On November 24, 2010, the parties filed a

1 stipulation (Dkt #5) to extend that deadline to December 29, 2010; to set the deadline for Plaintiff to
2 file its opposition to any papers filed by Defendants responsive to the Complaint to January 14, 2011;
3 and to set the hearing for such matters for February 4, 2011. The Court so ordered on November 29,
4 2010 (Dkt #6).

5
6 On December 15, 2010, the parties filed a stipulation (Dkt #7) to modify the times set in the
7 Court's *Order Setting Initial Case Management Conference and ADR Deadlines* (Dkt #3). The Court
8 so ordered on December 15, 2010 (Dkt #8).

9
10 On January 26, 2011, the parties filed a Second Stipulation to Revise Schedule (Dkt #21) to
11 modify the times set in the Court's *Order Setting Initial Case Management Conference and ADR*
12 *Deadlines* (Dkt #3). The Court so ordered on January 27, 2011 (Dkt #22).

13
14 On April 4, 2011, the Court entered an Order (Dkt #24) granting in part and denying in part
15 Defendants' Motion to Dismiss Complaint. As a result of this Order, the parties filed a Joint
16 Stipulation (Dkt # 25) on April 18, 2011 to provide timeframes for Plaintiff to re-plead its Complaint
17 in part and for Defendants to file responsive papers. The Court so ordered on April 18, 2011 (Dkt
18 #26).

19
20 On May 12, 2011, the parties filed a *Joint Stipulation to Revise Schedule* (Dkt. #28) to extend
21 by 20 days the time for Defendants to file pleadings responsive to Plaintiff's *First Amended*
22 *Complaint* (Dkt. #27), and to extend by 20 days the deadlines for the parties to perform the tasks
23 required by the Court's case management orders. The Court so ordered on May 16, 2011. (Dkt. #29).

24
25 On June 15, 2011, the parties filed a *Joint Stipulation* (Dkt. # 32) to extend the deadlines for
26 the Plaintiff to file its opposition to Defendants' Motion to Dismiss, the Defendants' reply, and the
27 deadlines for the parties to perform the tasks required by the Court's case management orders. The
28 Court so ordered on June 16, 2011. (Dkt. # 33).

1 On June 28, 2011, the parties filed a *Joint Stipulation to Revise Schedule* (Dkt. # 34) to extend
2 the deadlines for the Defendants to file their Reply to Plaintiff's Opposition to Defendants' Motion to
3 Dismiss. The Court so ordered on June 29, 2011. (Dkt. # 36).

4 On September 7, 2011, the parties filed a *Joint Stipulation to Revise Schedule* (Dkt. # 42) to
5 extend the deadlines for the parties to exchange initial disclosures. The Court so ordered on
6 September 29, 2011. (Dkt. #43).

8 On November 8, 2011, the parties filed a *Joint Stipulation to Revise Schedule RE Exchange of*
9 *Reports and Settlement Conference* (Dkt. #53) to extend deadlines for the exchange of expert reports
10 for settlement purposes only and to reschedule the case settlement conference in this matter. The
11 Court so ordered on November 9, 2011. (Dkt. #54).

13 On January 18, 2012, the parties filed a *Joint Stipulation to Revise Schedule* (Dkt. #62) to
14 extend deadlines for the exchange of expert reports for settlement purposes only, to reschedule the
15 case management conference in this matter, and to reschedule the case settlement conference in this
16 matter. This Court so ordered on January 23, 2012. (Dkt. # 63).

18 On March 13, 2012, the parties filed a *Joint Stipulation to Revise Schedule* (Dkt. #65) to
19 reschedule the Settlement Conference before the Honorable Judge Corley from May 4 to May 11,
20 2012. The Court so ordered on March 15, 2012 (Dkt. #66).

21 On May 18, 2012, the parties filed a *Stipulation and Proposed Order Continuing Deadlines*
22 *for Three Months Pending Settlement Review* (Dkt. #73), to give the parties the opportunity to take
23 certain steps agreed to at the May 11, 2012 settlement conference with Judge Corley. The Court so
24 ordered on May 21, 2012 (Dkt.#74).

26 A subsequent settlement conference occurred on September 7, 2012. No settlement was
27 reached. (Dkt. #79).

1 On October 15, 2012, the parties filed a *Joint Stipulation to Revise Schedule*, to reschedule
2 certain discovery deadlines. (Dkt. # 86). The Court so ordered on October 16, 2012. (Dkt. #88).

3 On April 30, 2013, the parties filed a *Joint Stipulation to Revise Schedule* to reschedule
4 certain discovery deadlines by two weeks. (Dkt. #107). The Court so ordered on May 1, 2013. (Dkt.
5 #108).
6

7 On June 5, 2013, the parties filed a *Joint Stipulation to Revise Schedule* to reschedule certain
8 briefing deadlines (Dkt. #109). The Court so ordered on June 7, 2013 (Dkt. #111). On June 18, 2013,
9 the parties filed a *Joint Stipulation to Revise Hearing Date* to revise the hearing date of dispositive
10 motions in this matter (Dkt. 114). The Court so ordered on June 20, 2013. (Dkt. #116).
11

12 **4. Description of the effect the requested time modification would have on the**
13 **schedule for the case (Local Rule 6-2(a)(3)):** The proposed time modifications would extend the
14 deadline for Defendants' Response to Plaintiff's Motion to Exclude and Plaintiff's Reply to
15 Defendants' Response by one-week each.

16 I declare under penalty of perjury under the laws of the United States of America that the
17 foregoing is true and correct, and that this Declaration was executed on July 15, 2013 at Miami,
18 Florida.
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20 /s/ Andrew S. Ittleman

21 Andrew S. Ittleman

22 Attorney for Defendant
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