

Selman Breitman LLP
ATTORNEYS AT LAW

1 LINDA WENDELL HSU (SBN 162971)
lhsu@selmanlaw.com
2 MARK E. INBODY (SBN 180862)
minbody@selmanlaw.com
3 REBEKAH SHAPIRO (SBN 262834)
rshapiro@selmanlaw.com
4 SELMAN BREITMAN LLP
33 New Montgomery, Sixth Floor
5 San Francisco, CA 94105-4537
Telephone: 415.979.0400
6 Facsimile: 415.979.2099

7 Attorneys for Plaintiff
8 NATIONWIDE MUTUAL INSURANCE COMPANY

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 NATIONWIDE MUTUAL INSURANCE
COMPANY,

12 Plaintiff,

13 v.

14 CERTAIN UNDERWRITERS AT LLOYD'S,
15 LONDON,

16 Defendant.

Case No. 3:15-CV-05503-RS

STIPULATION TO AMEND CASE
MANAGEMENT SCHEDULING ORDER AND
SETTING MOTION AND DISCOVERY
DEADLINES, AND [~~PROPOSED~~] ORDER

Judge: Richard Seeborg

Complaint Filed: December 1, 2015

Motion Cut-Off: August 3, 2017

Trial Date: November 13, 2017

18 1. WHEREAS, the parties entered into a Stipulation to Amend Case Management
19 Scheduling Order and Setting Motion and Discovery Deadlines [Docket # 57] regarding motions
20 for summary judgment and regarding depositions.

21 2. WHEREAS, after beginning preparation of these motions for summary judgment and
22 meeting and conferring, the parties require an additional two weeks to prepare the motions for
23 summary judgment.

24 3. WHEREAS, the facts and allegations described in paragraphs 4 through 10 below remain
25 as they were when first presented to the Court in the prior Stipulation to Amend Case
26 Management Scheduling Order and Setting Motion and Discovery Deadlines [Docket # 56 and
27 57].
28

1 4. WHEREAS, the parties have exchanged over ten boxes of documents, responded to
2 written discovery, and received documents pursuant to subpoenas.

3 5. WHEREAS, the parties have attended one mediation session with mediator Vivien
4 Williamson and are continuing to have settlement discussions through the mediator.

5 6. WHEREAS, Plaintiff Nationwide Mutual Insurance Company ("Nationwide") plans to
6 file a motion for summary judgment which it believes, if granted, will resolve all issues in the
7 case.

8 7. WHEREAS, Defendant Certain Underwriters at Lloyd's, London ("Certain
9 Underwriters") also plan to file a motion for summary judgment on the lack of coverage under
10 their policy.

11 8. WHEREAS, Certain Underwriters wishes to take at least five (5) depositions and not
12 wait to take those depositions until after motions for summary judgment are heard, namely:

- 13 a. Kevin Gilbert, who is not a party to this action;
- 14 b. Kevin Place, who is not a party to this action;
- 15 c. Federal Rule of Civil Procedure 30(b)(6) designee of K&K Insurance Group, Inc.,
16 which is not a party to this action;
- 17 d. Federal Rule of Civil Procedure Rule 30(b)(6) designee of Cannon Cochran
18 Management Services, Inc. ("CCMSI") and/or Margie Hickey of CCMSI, who are not
19 parties to this action; and
- 20 e. Federal Rule of Civil Procedure Rule 30(b)(6) designee of Nationwide.

21 9. WHEREAS, Nationwide objects to these depositions as premature and unnecessary
22 because it believes its motion for summary judgment will resolve all issues, and Certain
23 Underwriters are not agreeable to waiting to take the five sought depositions until after
24 Nationwide's motion for summary judgment is heard.

25 10. WHEREAS, the parties wish to avoid the time and expense of retaining experts on issues
26 that can be resolved without expert testimony through a motion for summary judgment.

27
28

1 THEREFORE the parties agree to the following briefing schedule for the motions for
2 summary judgment and request that the Court amend its July 23, 2016 Case Management
3 Scheduling Order [Docket #50] and Stipulation to Amend Case Management Scheduling Order
4 and Setting Motion and Discovery Deadlines [Docket # 57] to set the following new deadlines:
5

6 **MOTION FOR SUMMARY JUDGMENT**

- 7 1. On or before May 4, 2017, Nationwide and Certain Underwriters will file motions for
8 summary judgment.
9 2. On or before May 18, 2017, oppositions to the motions for summary judgment will be
10 filed.
11 3. On or before May 25, 2017, replies to any oppositions to the motions for summary
12 judgment will be filed.
13 4. The hearing on both motions for summary judgment will take place on June 8, 2017, at
14 1:30 p.m.

15 **DEPOSITIONS**

16 **(NO CHANGE FROM DOCKET #57)**

- 17 1. No depositions shall take place prior to April 20, 2017.
18 2. The parties shall meet and confer regarding the necessity and/or scheduling of
19 depositions following the filing of the motions for summary judgment, keeping in mind the
20 discovery deadlines set forth below and all relevant Local and Federal Rules.
21

21 **DISCOVERY DEADLINES**

- 22 1. On or before August 3, 2017, all non-expert discovery shall be completed by the parties.
23 [No change from Docket #57.]
24 2. On or before June 16, 2017, parties will designate experts in accordance with Federal
25 Rule of Civil Procedure 26(a)(2).
26 3. On or before August 3, 2017, all discovery of expert witnesses pursuant to Federal Rule
27 of Civil Procedure 26(b)(4) shall be completed. [No change from Docket #57.]
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

DATED: April 19, 2017

SELMAN BREITMAN LLP

By: /s/ Rebekah R. Shapiro
LINDA WENDELL HSU
MARK E. INBODY
REBEKAH SHAPIRO
Attorneys for Plaintiff
NATIONWIDE MUTUAL INSURANCE
COMPANY

DATED: April 19, 2017

COCHRAN, DAVIS & ASSOCIATES, P.C.

By: /s/ Lisa Kralick Hansen
JOAN COCHRAN
LISA KRALICK HANSEN
Attorneys for Defendant
CERTAIN UNDERWRITERS AT LLOYD'S,
LONDON

[PROPOSED] ORDER

Having reviewed the Stipulation to Amend Case Management Scheduling Order and Setting Motion and Discovery Deadlines, and good cause appearing, IT IS HEREBY ORDERED as follows:

MOTION FOR SUMMARY JUDGMENT

1. On or before May 4, 2017, Nationwide and Certain Underwriters will file motions for summary judgment.
2. On or before May 18, 2017, oppositions to the motions for summary judgment will be filed.
3. On or before May 25, 2017, replies to any oppositions to the motions for summary judgment will be filed.
4. The hearing on Nationwide's and Certain Underwriters' motions for summary judgment

1 will take place on June 8, 2017, at 1:30 p.m.

2 **DEPOSITIONS**

3 **(NO CHANGE FROM DOCKET #57)**

- 4 1. No depositions shall take place prior to April 20, 2017.
- 5 2. The parties shall meet and confer regarding the scheduling of depositions, keeping in
6 mind the discovery deadlines set forth below and all relevant Local and Federal Rules.

7 **DISCOVERY DEADLINES**

- 8 1. On or before August 3, 2017, all non-expert discovery shall be completed by the parties.
9 [No change from Docket #57.]
- 10 2. On or before June 16, 2017, parties will designate experts in accordance with Federal
11 Rule of Civil Procedure 26(a)(2).
- 12 3. On or before August 3, 2017, all discovery of expert witnesses pursuant to Federal Rule
13 of Civil Procedure 26(b)(4) shall be completed. [No change from Docket #57.]

14 All other deadlines and orders to remain unchanged.

15
16 Dated: 4/27, 2017



17
18 RICHARD SEEBORG
United States District Judge