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15 *Attorneys for Plaintiff ARNESHA GARNER*

16
 17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA

19
 20 ARNESHA M. GARNER, on behalf of
 herself and all others similarly situated,

21 Plaintiff,

22 v.

23 STATE FARM MUTUAL
 24 AUTOMOBILE INSURANCE
 COMPANY, et al.,

25 Defendants.
 26

Case No. CV 08 1365 CW

CLASS ACTION

**STIPULATION AND ORDER
 MODIFYING SCHEDULE**

Date:
 Time:
 Honorable Claudia Wilken

1 WHEREAS, the Court has previously set the following schedule for completion of the
2 appraisal of Plaintiff's vehicle and briefing of the issues described below:

3 1. The parties were to complete the appraisal of Plaintiff's vehicle on or before
4 August 26, 2008;

5 2. Defendant is to file its motion for summary adjudication of the effectiveness of the
6 Total Loss Regulation and any motion to dismiss by November 20, 2008;

7 3. Plaintiff is to file her opposition to Defendant's motion(s), any cross-motion for
8 summary adjudication of the effectiveness of the Total Loss Regulation, and any motion to add a
9 new plaintiff by December 4, 2008;

10 4. Defendant is to file its reply in support of its motion(s) and its opposition to
11 Plaintiff's cross-motion by December 18, 2008;

12 5. Plaintiff is to file her reply in support of her cross-motions by January 8, 2009.

13 6. The hearing on all motions is to be held on January 22, 2009.

14 WHEREAS, the parties will be in a position to brief summary adjudication of the
15 effectiveness of the Total Loss Regulation on the schedule specified.

16 WHEREAS, despite the parties' best efforts, they were unable to complete the appraisal
17 by August 26, 2008 and anticipate that the appraisal process will not be completed until the first
18 week of December 2008, approximately two weeks after Defendant's motion to dismiss based on
19 the appraisal would be due under the current schedule.

20 WHEREAS, under the current schedule counsel for Plaintiffs would have known whether
21 or not Plaintiff had prevailed in the appraisal – and therefore whether a motion to add a new
22 plaintiff would be necessary – more than three months before counsel were required to move to
23 add a new class representative.

24 WHEREAS, the delay in completion of the appraisal requires a modification of the
25 current schedule to allow Defendant to file a motion to dismiss based on the results of the
26 appraisal and Plaintiff's counsel the opportunity to locate an additional class representative if the
27 appraisal should be resolved in Defendant's favor.

1 NOW, THEREFORE, pursuant to Local Rule 6-2, Plaintiff and Defendant, by and
2 through their respective counsel, stipulate that:

3 1. The briefing schedule be modified as follows:

4 a. The briefing schedule and hearing date for the parties' cross
5 motions for summary adjudication of the effectiveness of the Total Loss Regulation shall remain
6 unchanged.

7 b. The briefing schedule and hearing date for Defendant's motion to
8 dismiss is modified as follows:

9 i. Defendant will file its motion to dismiss by March 19, 2009.

10 ii. Plaintiff will file her opposition to Defendant's motion to
11 dismiss and any motion to add additional class representatives by April 2, 2009.

12 iii. Defendant will file its reply in support of its motion to
13 dismiss, and its opposition to Plaintiff's motion to add additional class representatives, by April
14 16, 2009.

15 iv. Plaintiff will file her reply in support of her motion to add
16 additional class representatives by April 23, 2009.

17 v. The hearing on Defendant's motion to dismiss and
18 Plaintiff's motion to add additional class representatives shall be held on May 7, 2008.

19 2. Plaintiff reserves the right to file a motion requesting permission to take
20 discovery from Defendant for the purpose of identifying potential additional class representatives
21 after the third appraiser issues his opinion of value. Defendant reserves the right to oppose any
22 such motion.

23 STIPULATED TO AND AGREED:
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DATED: November 11, 2008

LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

By: /s/ Robert J. Nelson
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DATED: November 11, 2008

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ORDER

Pursuant to the stipulation of the parties, and good cause appearing therefor,
IT IS SO ORDERED this 13th day of November, 2008.



CLAUDIA WILKEN
United States District Judge