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28UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

NORMAN YOSHIMOTO,

Plaintiff,

v.

O'REILLY AUTOMOTIVE, INC., et al.,

Defendants.

Related cases:

No. C 10-5438 PJH

No. C 11-3119 PJH

**ORDER RE ADMINISTRATIVE  
MOTION TO ISSUE NEW  
SCHEDULING ORDER**

Before the court is defendant's administrative motion to issue a new scheduling order amending the expert disclosure and expert cutoff dates. Defendant brings this motion because it missed the December 21, 2012 deadline for expert disclosures "[d]ue purely to an inadvertent clerical error." Plaintiff opposes the motion, noting that defendant waited over one month to bring this error to the court's attention.

The court agrees that defendant, after realizing its error, should have filed its motion as soon as was reasonably possible. Defendant has not explained why it waited until January 29, 2013 to seek relief from the court. However, the court also notes that plaintiff has made his own untimely attempt to seek additional discovery. See Dkt. 104. Because trial is not scheduled to begin until March 2014, it may be appropriate for the parties to conduct additional discovery between now and then. However, because defendant is in the process of filing a summary judgment motion, which may narrow the scope of issues for trial, the court defers judgment on the parties' requests for additional discovery. After the court rules on defendant's summary judgment motion, it will revisit the issue of what (if any)

1 additional discovery is needed.

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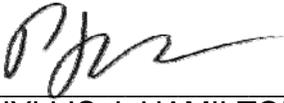
3 **IT IS SO ORDERED.**

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Dated: February 12, 2013

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PHYLLIS J. HAMILTON  
United States District Judge

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