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6 **CO-LEAD CLASS COUNSEL**



10 **IN THE UNITED STATES DISTRICT COURT**
 11 **NORTHERN DISTRICT OF CALIFORNIA**
 12 **SAN JOSE DIVISION**

14 FELTON A. SPEARS, JR. and
 15 SIDNEY SCHOLL, on behalf of themselves and
 all others similarly situated,

16 Plaintiffs,

17 vs.

18 FIRST AMERICAN EAPPRAISEIT
 (a/k/a eAppraiseIT, LLC),
 19 a Delaware limited liability company,

20 Defendant.

) Case No. 5-08-CV-00868 (RMW)

) **STIPULATION AND [] ORDER**
) **EXTENDING CERTAIN PRE-TRIAL**
) **DATES**

1 Plaintiffs Felton A. Spears, Jr. and Sidney Scholl (collectively, “Plaintiffs”), and Defendant
2 eAppraiseIT, LLC (“EA;” collectively, the “Parties”), by and through their respective counsel of
3 record and pursuant to Local Rules 6-2 and 7-12, enter into the following stipulation for an order
4 extending certain pre-trial dates. This stipulation does not seek modification of the trial date or the
5 date currently scheduled for the pre-trial conference.

6 WHEREAS, on April 25, 2012, the Court granted Plaintiffs’ Motion for Class Certification
7 of Plaintiffs’ claim under RESPA, 12 U.S.C. § 2607(a), certifying a Class of “All consumers in
8 California and throughout the United States who, on or after June 1, 2006, received home loans from
9 Washington Mutual Bank, FA in connection with appraisals that were obtained through
10 eAppraiseIT.” Dkt. No. 249, p. 12.

11 WHEREAS, per the Court’s November 6, 2013 Order (Dkt. 350) scheduling expert reports,
12 Plaintiffs served EA with experts’ reports from twelve experts on January 31, 2014. Plaintiffs served
13 one supplemental expert report via email to EA’s counsel and made four other supplemental reports
14 available EA via secure server on May 14, 2014. Plaintiffs emailed the remaining supplemental
15 experts to Defendant on May 15, 2014 upon learning that EA had trouble retrieving the reports off
16 the server the prior evening.¹

17 WHEREAS, EA served no expert reports on January 31, 2014 and submitted six rebuttal
18 reports on the June 6, 2014 rebuttal report deadline under this Court’s scheduling order.

19 WHEREAS, the parties have made reciprocal expert-related document requests, and EA has
20 advised that it anticipates substantially completing production of expert-related documents within
21 two weeks of submission of its rebuttal reports (*i.e.*, by June 20, 2014).

22 WHEREAS, given the scope of the parties’ expert cases (totaling over eighteen experts,
23 including appraisal practice, appraisal review, appraisal inflation analysis, RESPA compliance and
24 damages experts) and the need for Plaintiffs to analyze the rebuttal reports as well as the expert-
25 related documents being produced thereafter, the parties need more time than is currently included in
26 the Court’s Scheduling Order (Dkt. 350) in order to: 1) complete certain expert depositions as

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¹ EA intends to move to strike the supplemental reports as improper and untimely supplementation.

1 described below; and 2) include – if necessary – a discussion of certain of those expert depositions in
2 the parties’ respective opposition and reply briefs in connection with upcoming motions (including,
3 but not limited to, motions for summary judgment and a motion for decertification).

4 WHEREAS, the parties have agreed to conduct expert depositions in two phases, such that
5 the expert depositions that are potentially relevant to the upcoming motions for summary judgment
6 and other motion practice are completed by the time the parties’ opposition and reply briefs are due.
7 To minimize the burden on the parties during the briefing phase of these motions, the parties will
8 take only those expert depositions necessary for their opposition briefs prior to the filing of their
9 opposition briefs. Expert depositions necessary for their reply briefs will be taken after opposition
10 briefs are filed and prior to the filing of their reply briefs. All other expert depositions will be taken
11 after the filing of reply briefs, which the parties anticipate will include some twelve appraisal
12 reviewer experts (or fewer to the extent they are deposed earlier). The parties will work to schedule
13 depositions so they occur more than three business days prior to the respective opposition and reply
14 briefing deadlines.

15 WHEREAS, under the current Scheduling Order, expert discovery is now scheduled to close
16 on June 30, 2014 (just over three weeks after the production of Defendants’ rebuttal expert reports),
17 dispositive motions are scheduled to be heard on July 25, 2014, and the “other motion hearing cut-
18 off (other than motions *in limine*)” is set for August 22, 2014.

19 WHEREAS, the parties respectfully request that: 1) the expert discovery cutoff be extended
20 from June 30, 2014 to September 5, 2014; 2) the dispositive motion hearing cut-off be extended to
21 the same date as the “other motion hearing cut-off (other than motions *in limine*)”; and that the
22 Parties’ upcoming motions for summary judgment and decertification (and any other motions other
23 than motions *in limine*) be briefed according to the following briefing schedule, with the
24 understanding that one or more party(ies) may need to extend the time to respond to the motions,
25 which have not yet been filed: moving papers due July 1, 2014; opposition papers due July 25,
26 2014, and reply papers due August 8, 2014. Moreover, the parties have scheduled a mediation with
27 John Leo Wagner on September 17, 2014. Accordingly, in light of these requested changes and the
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1 scheduled mediation date, the parties also respectfully request that the mediation cutoff date
2 (currently July 16, 2014) be extended to September 25, 2014.

3 WHEREAS, there have been three previous time modifications in this action. On March 27,
4 2013, the Court granted the Parties' stipulation to extend the deadlines in this action by four months.
5 Dkt. No. 303. On August 30, 2013, the Court granted the Parties' stipulation to further extend the
6 deadlines in the action by approximately one month. Dkt. No. 331. On November 6, 2013, the
7 Court extended the fact discovery deadline as to discovery from third party JPMorgan Chase Bank,
8 N.A. until December 22, 2013 and extended expert discovery and certain other deadlines to
9 accommodate this change. Dkt. No. 350.

10 WHEREAS, the requested time modification will affect no other deadlines in this action.

11 WHEREAS, for the reasons set forth herein, good cause exists to extend the dates requested
12 herein.

13 NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING, IT IS HEREBY
14 STIPULATED by and between the parties, that the following deadlines be adjusted as follows:

Event	Prior Deadline per November 6, 2013 Order (Dkt. #350)	New Deadline
Expert Discovery Cut-Off	June 30, 2014	September 5, 2014
Mediation	July 16, 2014	September 25, 2014
Dispositive Motion Hearing Cut-Off	July 25, 2014	August 22, 2014
Other Motion Hearing Cut- Off (other than motions <i>in limine</i>)	August 22, 2014	August 22, 2014
Pretrial Conference (hearing on motions in limine, agreed jury instructions and verdict forms, proposed voir dire)	October 9, 2014	October 9, 2014
Pretrial Brief	October 30, 2014	October 30, 2014
Trial Date	November 24, 2014	November 24, 2014

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Dated: June 12, 2014

FEINSTEIN DOYLE PAYNE & KRAVEC, LLC

By: s/Joseph N. Kravec, Jr.
Joseph N. Kravec, Jr., Co-Lead Class Counsel

Dated: June 12, 2014

LAW OFFICES OF JANET LINDNER SPIELBERG

By: s/Janet Lindner Spielberg
Janet Lindner Spielberg, Co-Lead Class Counsel

Dated: June 12, 2014

IRELL & MANELLA LLP

By: s/A. Matthew Ashley
Attorneys for DEFENDANT

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____



Honorable Ronald M. Whyte
United States District Judge