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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FIDELITY NATIONAL FINANCIAL, INC., et al.,

Plaintiff,

v.

NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA., et al.,

Defendant.

Civil No. 09cv140-AJB (CAB)

ORDER FURTHER MODIFYING 2-15-11 SCHEDULING ORDER FOLLOWING 5-11-11 STATUS CONFERENCE

A status conference was held on May 11, 2011 before Magistrate Judge Bencivengo with regard to discovery scheduling issues. After consulting with the attorneys of record for the parties and being advised of the status of the case, and good cause appearing, **IT IS HEREBY ORDERED:**

- 1. All outstanding¹ fact discovery shall be completed on or before June 30, 2011.

“Completed” means that all discovery under Rules 30-36 of the Federal Rules of Civil Procedure must be initiated a sufficient period of time in advance of the cut-off date, so *that it may be completed* by the cut-off date, taking into account the times for services, notice, and response as set forth in the Federal Rules of Civil Procedure. All discovery motions must be filed within 30 days of the service of an

¹ This means all discovery properly noticed prior to May 11, 2011. No new discovery requests or deposition notices may be served without leave of court and without good cause.

1 objection, answer or response which becomes the subject of dispute or the passage of a discovery due
2 date without response or production, and only after counsel have met and conferred and have reached
3 impasse with regard to the particular issue.

4 2. Each expert witness designated by a party shall prepare a written report to be provided to
5 all other parties **no later than July 15, 2011**, containing the information required by Fed. R. Civ. P.
6 26(a)(2)(A) and (B).

7 **Except as provided in the paragraph below any party that fails to make these disclosures**
8 **shall not, absent substantial justification, be permitted to use evidence or testimony not disclosed**
9 **at any hearing or at the time of trial. In addition, the Court may impose sanctions as permitted by**
10 **Fed. R. Civ. P. 37(c).**

11 3. Any party, through any expert designated, shall in accordance with Fed. R. Civ. P.
12 26(a)(2)(C) and Fed. R. Civ. P. 26(e), supplement any of its expert reports regarding evidence intended
13 solely to contradict or rebut evidence on the same subject matter identified in an expert report submitted
14 by another party. Any such supplemental reports are due on or before **August 5, 2011**.

15 4. **All expert discovery** shall be completed on or before **September 9, 2011**.

16 All other dates set forth in the Court's scheduling orders of 2/15/11 [Doc. No. 187] and 5/5/11
17 [Doc. No. 222] shall remain in effect.

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19 DATED: May 12, 2011

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22 **CATHY ANN BENCIVENGO**
23 United States Magistrate Judge
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