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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 ALFONSO and ARLENE MORAN,
12 individually and on behalf of a class of
13 similarly situated individuals,
14 Plaintiffs,
15 v.
16 FCA US LLC,
17 Defendant.

Case No.: 3:17-cv-02594-GPC-AHG

**AMENDED SCHEDULING ORDER
AND ORDER GRANTING JOINT
MOTION FOR CONTINUANCE**

[ECF No. 82]

18 This matter comes before the Court on the parties' Joint Motion for Order
19 Continuing Pretrial Deadlines. ECF No. 82.

20 Parties seeking to modify a scheduling order must show good cause. *See* Fed. R. Civ.
21 P 16(b)(4) ("A schedule may be modified only for good cause and with the judge's
22 consent"). "Good cause" is a non-rigorous standard that has been construed broadly across
23 procedural and statutory contexts. *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1259
24 (9th Cir. 2010). The good cause standard focuses on the diligence of the party seeking to
25 amend the scheduling order and the reasons for seeking modification. *Johnson v. Mammoth*
26 *Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992).

27 Here, the parties seek an extension of all pretrial deadlines, including Plaintiffs'
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1 deadline to file a class certification motion, in order to facilitate settlement efforts. In the
2 same vein, the parties request a settlement conference before the undersigned on
3 February 12, 2021.

4 Upon review and consultation with the presiding District Judge in this matter, the
5 Court finds the parties have shown good cause to **GRANT** the Joint Motion. Accordingly,
6 **IT IS HEREBY ORDERED:**

7 1. A Mandatory Settlement Conference (“MSC”) shall be conducted **via**
8 **videoconference**¹ before Magistrate Judge Allison H. Goddard on **February 12, 2021** at
9 **2:00 PM.**

10 2. Plaintiff must serve on Defendant a **written** settlement proposal, which must
11 include a specific demand amount, no later than **February 1, 2021.** The defendant must
12 respond to the plaintiff **in writing** with a specific offer amount prior to the Meet and
13 Confer discussion. The parties should not file or otherwise copy the Court on these
14 exchanges. Rather, the parties must include their written settlement proposals in their
15 respective Settlement Conference Statements to the Court. Counsel for the parties must
16 meet and confer in person or by phone no later than **February 8, 2021.** Each party must
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18 ¹ On March 23, 2020, Chief Judge Larry A. Burns amended his original Order in response
19 to the COVID-19 public emergency, which, among other things, excuses personal
20 appearance of counsel and parties at civil court proceedings and notes that judges retain
21 discretion to hold civil proceedings telephonically. *See* CJO #18-A at ¶ 4B. His original
22 order, CJO #18, is available on the Court website at
23 https://www.casd.uscourts.gov/_assets/pdf/rules/Order%20of%20the%20Chief%20Judge%202018.pdf. His amended order, CJO #18-A, which amends paragraph four of CJO #18, is
24 available on the Court website at
25 https://www.casd.uscourts.gov/_assets/pdf/rules/Order%20of%20the%20Chief%20Judge%202018-a.pdf. These orders were extended until mid-January by CJO #52B, which is
26 available on the Court website at
27 https://www.casd.uscourts.gov/_assets/pdf/rules/Order%20of%20the%20Chief%20Judge%202052-B%20-%20Extending%20Renewed%20Suspension%20of%20Jury%20Trials%20and%20Other%20In-Person%20Proceedings.pdf.
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1 prepare a Settlement Conference Statement, which will be served on opposing counsel
2 and lodged with the Court no later than **February 10, 2021**. The Statement must be
3 lodged in .pdf format via email to efile_goddard@casd.uscourts.gov (not filed). The
4 substance of the Settlement Conference Statement must comply fully with Judge
5 Goddard's Mandatory Settlement Conference Rules (located at
6 [https://www.casd.uscourts.gov/Judges/goddard/docs/Goddard%20Mandatory%20Settle
7 ent%20Conference%20Rules.pdf](https://www.casd.uscourts.gov/Judges/goddard/docs/Goddard%20Mandatory%20Settlement%20Conference%20Rules.pdf)). Each party may also prepare an **optional**
8 Confidential Settlement Letter for the Court's review only, to be lodged with the Court
9 no later than **February 10, 2021**. The Letter must be lodged in .pdf format via email to
10 efile_goddard@casd.uscourts.gov (not filed). Should a party choose to prepare a Letter,
11 the substance of the Settlement Conference Letter must comply fully with Judge
12 Goddard's Mandatory Settlement Conference Rules. **All parties are ordered to read**
13 **and to fully comply with the Chambers Rules and Mandatory Settlement**
14 **Conference Rules of Magistrate Judge Allison H. Goddard.**

15 3. The Court will use its official Zoom video conferencing account to hold the
16 Settlement Conference. **If you are unfamiliar with Zoom:** Zoom is available on
17 computers through a download on the Zoom website (<https://zoom.us/meetings>) or on
18 mobile devices through the installation of a free app.² Joining a Zoom conference does not
19 require creating a Zoom account, but it does require downloading the .exe file (if using a
20 computer) or the app (if using a mobile device). Participants are encouraged to create an
21 account, install Zoom and familiarize themselves with Zoom in advance of the Settlement
22 Conference.³ There is a cost-free option for creating a Zoom account.

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25 ² If possible, participants are encouraged to use laptops or desktop computers for the
26 video conference, rather than mobile devices.

27 ³ For help getting started with Zoom, visit: [https://support.zoom.us/hc/en-
28 us/categories/200101697-Getting-Started](https://support.zoom.us/hc/en-us/categories/200101697-Getting-Started)

1 4. Prior to the start of the Settlement Conference, the Court will email each
2 participant an invitation to join a Zoom video conference. Again, if possible, participants
3 are encouraged to use laptops or desktop computers for the video conference, as mobile
4 devices often offer inferior performance. Participants shall join the video conference by
5 following the ZoomGov Meeting hyperlink in the invitation. **Participants who do not**
6 **have Zoom already installed on their device when they click on the ZoomGov Meeting**
7 **hyperlink will be prompted to download and install Zoom before proceeding.** Zoom
8 may then prompt participants to enter the password included in the invitation. All
9 participants will be placed in a waiting room until the Settlement Conference begins.

10 5. Each participant should plan to join the Zoom video conference **at least five**
11 **minutes before** the start of the Settlement Conference to ensure that the conference begins
12 promptly at 2:00 p.m.

13 6. Zoom's functionalities will allow the Court to conduct the Settlement
14 Conference as it ordinarily would conduct an in-person one. The Court will divide
15 participants into separate, confidential sessions, which Zoom calls Breakout Rooms.⁴ In a
16 Breakout Room, the Court will be able to communicate with participants from a single
17 party in confidence. Breakout Rooms will also allow parties and counsel to communicate
18 confidentially without the Court.

19 7. No later than **February 10, 2021**, counsel for each party shall send an e-mail
20 to the Court at efile_goddard@casd.uscourts.gov containing the following:

- 21 a. The **name and title of each participant**, including all parties and party
22 representatives with full settlement authority, claims adjusters for
23 insured defendants, and the primary attorney(s) responsible for the
24 litigation;

27 ⁴ For more information on what to expect when participating in a Zoom Breakout
28 Room, visit: <https://support.zoom.us/hc/en-us/articles/115005769646>

- 1 b. An **e-mail address for each participant** to receive the Zoom video
2 conference invitation; and
- 3 c. A **telephone number where each participant** may be reached so that
4 if technical difficulties arise, the Court will be in a position to proceed
5 telephonically instead of by video conference. (If counsel prefers to
6 have all participants of their party on a single conference call, counsel
7 may provide a conference number and appropriate call-in information,
8 including an access code, where all counsel and parties or party
9 representatives for that side may be reached as an alternative to
10 providing individual telephone numbers for each participant.)
- 11 d. A **cell phone number for that party's preferred point of**
12 **contact** (and the name of the individual whose cell phone it is) for the
13 Court to use during the ENE to alert counsel via text message that the
14 Court will soon return to that party's Breakout Room, to avoid any
15 unexpected interruptions of confidential discussions.

16 8. All participants shall display the same level of professionalism during the
17 Settlement Conference and be prepared to devote their full attention to the Settlement
18 Conference as if they were attending in person, i.e., cannot be driving while speaking to
19 the Court. Because Zoom may quickly deplete the battery of a participant's device, each
20 participant should ensure that their device is plugged in or that a charging cable is readily
21 available during the video conference.

22 Additionally, the Scheduling Order in this action is **AMENDED** as follows:

- 23 1. The deadline to file a class certification motion is **May 14, 2021**.
- 24 2. All expert discovery shall be completed by all parties by **March 31, 2021**.

25 “Completed” means that all discovery under Rules 30-36 of the Federal Rules of Civil
26 Procedure, and discovery subpoenas under Rule 45, must be initiated a sufficient period of
27 time in advance of the cut-off date, **so that it may be completed** by the cut-off date, taking
28 into account the times for service, notice and response as set forth in the Federal Rules of

1 Civil Procedure. **Counsel shall promptly and in good faith meet and confer with**
2 **regard to all discovery disputes in compliance with Local Rule 26.1(a). A failure to**
3 **comply in this regard will result in a waiver of a party's discovery issue. Absent an**
4 **order of the court, no stipulation continuing or altering this requirement will be**
5 **recognized by the court.** The Court expects counsel to make every effort to resolve all
6 disputes without court intervention through the meet and confer process. If the parties
7 reach an impasse on any discovery issue, the movant must e-mail chambers at
8 efile_goddard@casd.uscourts.gov no later than 45 days after the date of service of the
9 written discovery response that is in dispute, seeking a telephonic conference with the
10 Court to discuss the discovery dispute. The email must include: (1) at least three proposed
11 times mutually agreed upon by the parties for the telephonic conference; (2) a neutral
12 statement of the dispute; and (3) one sentence describing (not arguing) each parties'
13 position. The movant must copy opposing counsel on the email. No discovery motion may
14 be filed until the Court has conducted its pre-motion telephonic conference, unless the
15 movant has obtained leave of Court. **All parties are ordered to read and to fully comply**
16 **with the Chambers Rules of Magistrate Judge Allison H. Goddard.**

17 3. Except for motions in limine, all pretrial motions must be filed by
18 **June 14, 2021**. As provided herein, **certain motions, including motions for class**
19 **certification, must be filed well before this date.** Pursuant to Honorable Gonzalo P.
20 Curiel's Civil Pretrial & Trial Procedures, all motions for summary judgment shall be
21 accompanied by a separate statement of undisputed material facts. Any opposition to a
22 summary judgment motion shall include a response to the separate statement of undisputed
23 material facts. Counsel for the moving party must obtain a motion hearing date from the
24 law clerk of the judge who will hear the motion. Motion papers **MUST** be filed and served
25 the same day of obtaining a motion hearing date from chambers. A briefing schedule will
26 be issued once a motion has been filed. The period of time between the date you request a
27 motion date and the hearing date may vary. Please plan accordingly. Failure to make a
28 timely request for a motion date may result in the motion not being heard.

1 4. Pursuant to Honorable Gonzalo P. Curiel's Civil Pretrial & Trial Procedures,
2 the parties are excused from the requirement of Local Rule 16.1(f)(2)(a); no Memoranda
3 of Law or Contentions of Fact are to be filed.

4 5. Counsel shall comply with the pre-trial disclosure requirements of Fed. R.
5 Civ. P. 26(a)(3) by **August 27, 2021**. Failure to comply with these disclosure requirements
6 could result in evidence preclusion or other sanctions under Fed. R. Civ. P. 37.

7 6. Counsel shall meet and take the action required by Local Rule 16.1(f)(4) by
8 **September 10, 2021**. At this meeting, counsel shall discuss and attempt to enter into
9 stipulations and agreements resulting in simplification of the triable issues. Counsel shall
10 exchange copies and/or display all exhibits other than those to be used for impeachment.
11 The exhibits shall be prepared in accordance with Local Rule 16.1(f)(4)(c). Counsel shall
12 note any objections they have to any other parties' Pretrial Disclosures under Fed. R. Civ.
13 P. 26(a)(3). Counsel shall cooperate in the preparation of the proposed pretrial conference
14 order.

15 7. Counsel for plaintiff will be responsible for preparing the pretrial order and
16 arranging the meetings of counsel pursuant to Civil Local Rule 16.1(f). By
17 **September 17, 2021**, plaintiff's counsel must provide opposing counsel with the proposed
18 pretrial order for review and approval. Opposing counsel must communicate promptly
19 with plaintiff's attorney concerning any objections to form or content of the pretrial order,
20 and both parties shall attempt promptly to resolve their differences, if any, concerning the
21 order.

22 8. The Proposed Final Pretrial Conference Order, including objections to any
23 other parties' Fed. R. Civ. P. 26(a)(3) Pretrial Disclosures shall be prepared, served and
24 lodged with **Judge Curiel** by **September 24, 2021**, and shall comply with Local Rule
25 16.1(f)(6).

26 9. The final Pretrial Conference is scheduled on the calendar of the **Honorable**
27 **Gonzalo P. Curiel** on **October 1, 2021** at **1:30 pm**. The Court will set a trial date during
28 the pretrial conference. The Court will also schedule a motion in limine hearing date during

1 the pretrial conference.

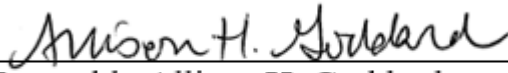
2 10. The parties must review the chambers' rules for the assigned district judge
3 and magistrate judge.

4 11. Upon the parties' request, a post-trial settlement conference before a
5 magistrate judge may be held within 30 days of verdict in the case.

6 12. The dates and times set forth herein will not be modified except for good cause
7 shown.

8 **IT IS SO ORDERED.**

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10 Dated: January 27, 2021

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12 _____
13 Honorable Allison H. Goddard
14 United States Magistrate Judge
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