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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LA ROCA CHRISTIAN
COMMUNITIES INTERNATIONAL,
INC.,

Plaintiff,

v.

CHURCH MUTUAL INSURANCE CO.,

Defendant.

Case No.: 20-cv-1324-DMS-BGS

**ORDER ON JOINT MOTIONS TO
EXTEND DEADLINES**

[ECF 25, 27]

On May 10, 2021, the parties filed a Stipulation to Extend Deadlines in the Discovery Plan and Scheduling Order (“Joint Motion”) seeking to extend the fact discovery deadline by approximately eight weeks and the remaining deadlines by 90 days. (ECF 25 at 2-3.¹) In support of the extensions, the parties indicated that they believe their respective dispositive motions addressing the threshold issue of the duty to defend should precede depositions and expert discovery. (*Id.* at 3.) However, the Joint Motion indicated that the parties did not serve written discovery requests and third-party subpoenas until late April (Defendant) and early May (Plaintiff), did not explain why the parties waited two months to pursue discovery, or identify when responses to that

¹ Citations are to the CM/ECF electronic pagination unless otherwise indicated.

1 discovery were due. (*Id.* at 3.) It also did not indicate what specific discovery remained
2 to be conducted, what additional discovery was needed to accommodate dispositive
3 motions regarding the duty to defend, how soon those motions could be filed, or what
4 discovery was needed after those motions are decided.

5 Given this missing information, (*see* Chambers Rules III.C.1), the Court ordered
6 the parties to file a supplemental brief with supporting declaration(s) that complied with
7 the Chambers Rules and addressed these deficiencies. (ECF 26.) The Court required the
8 parties to identify the specific discovery needed both before and after the dispositive
9 motions, how much time was needed to file dispositive motions, and why the time
10 requested was needed. (*Id.*)

11 On May 17, 2021, the parties' filed a Further Joint Motion that responds to the
12 Courts Order. (ECF 27.) The parties explain their efforts regarding initial disclosures
13 and identify the deadlines for responses to their respective written discovery requests –
14 May 26, 2021 (Defendant's) and June 7, 2021 (Plaintiff's). The parties also indicate that
15 each has issued a third-party subpoena with responses due May 18, 2021 (Defendant's)
16 and June 7, 2021 (Plaintiff's).

17 As to remaining fact discovery, the parties identify four depositions and two
18 potential depositions. (*Id.* at 4.) As to expert discovery, should it be necessary,² the
19 parties identify expert reports and expert depositions for the parties' respective claims-
20 handling experts and possible fee experts. (*Id.*)

21 Plaintiff indicates that all discovery needed to bring its dispositive motion
22 regarding the duty to defend issue is complete. (*Id.*) However, before Defendant could
23 file its dispositive motion on the duty to defend, Defendant requires the responses to both
24 Defendant's April 26, 2021 requests for production of documents (due May 26, 2021)
25 and its third-party subpoena (due May 18, 2021). Defendant also indicates that
26

27
28 ² The parties indicate that “[d]epending on the outcome of the motions, expert discovery
may no longer be necessary or appropriate.” (ECF 27 at 5.)

1 depending on the documents received, it may need a Rule 30(b)(6) deposition and/or to
2 depose non-party Pacific Coast Prep. (*Id.*)

3 Because the parties' motions will both address the duty to defendant and the duty
4 to indemnify, the parties prefer the motions be heard at the same time. (*Id.* at 5.) The
5 parties indicate they intend to file those motions on or before August 20, 2021. (*Id.*)

6 As to all other deadlines in the Scheduling Order, the parties propose the
7 following:

	Current Deadline	Proposed Extension
8 Fact Discovery Cut-Off	June 10, 2021	August 5, 2021
9 Parties' Initial Expert Designations	July 12, 2021	October 11, 2021
10 Parties' Supplemental Expert	July 26, 2021	October 25, 2021
11 Designations		
12 Parties Serve Initial Expert Reports	August 26, 2021	November 24, 2021
13 Parties Serve Rebuttal Expert Reports	September 9, 2021	December 8, 2021
14 Expert Discovery Cut-Off	October 11, 2021	January 10, 2022
15 Last Day to File Dispositive Motions	November 12, 2021	February 10, 2021
16 Mandatory Settlement Conference	January 28, 2022	April 28, 2022
17 Pretrial Conference	March 11, 2022	June 9, 2022
18 Trial	April 11, 2022	July 11, 2022
19		
20		

21 While the parties explain that reviewing initial disclosures and engaging in
22 informal discussions regarding anticipated discovery was time consuming, the Court
23 notes that both parties waited more than two months to pursue any discovery at all. The
24 Scheduling Order in this case was issued on February 19, 2021 and the parties' respective
25 discovery requests to each other were not issued until April 26, 2021 and May 7, 2021.
26 This resulted in responses being due very shortly before the fact discovery deadline of
27 June 10, 2021, May 26, 2021 (Defendant's) and June 7, 2021 (Plaintiff's). As to these
28 specific requests, this is technically in compliance with the Court's Order that discovery

1 must be “completed”³ by the June 10, 2021 fact discovery deadline. However, it is
 2 concerning because there was obviously discovery that still had to be completed
 3 following these responses and no time to conduct it. For example, it appears Defendant
 4 knew it needed the responses before conducting a Rule 30(b)(6) deposition. (*Id.* at 4
 5 (“Depending on the discovery responses received, [Defendant] may also require
 6 additional discovery in the form of a [Rule] 30(b)(6) deposition and/or deposition of non-
 7 party Pacific Coast Christian Prep prior to filing its motion.”) In this respect, the parties
 8 knew even before those discovery requests were issued that they would not be able to
 9 meet the fact discovery deadline.

10 Despite this delay in pursuing fact discovery, the Court finds the parties have
 11 shown good cause to modify the Scheduling Order to allow them to file early dispositive
 12 motions on the issue of the duty to defend and extend the deadlines in the Scheduling
 13 Order as follows:

	Current Deadline	New Deadline
14		
15	Discovery as to Duty to Defend ⁴	NA
16	Dispositive Motions on Duty to Defend	NA
17	Filed	
18	Any Other Fact Discovery Not Already	June 10, 2021
19	Completed	August 5, 2021
20	Parties’ Initial Expert Designations	July 12, 2021
21		October 11, 2021

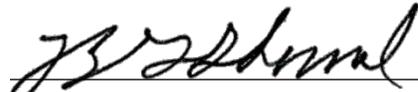
24 ³ “‘Completed’ means that all discovery under Rules 30-36 of the Federal Rules of Civil
 25 Procedure, and discovery subpoenas under Rule 45, must be initiated a sufficient period
 26 of time in advance of the cut-off date, so that it may be completed by the cut-off date,
 27 taking into account the times for service, notice and response as set forth in the Federal
 28 Rules of Civil Procedure.” (ECF 21 at 1-2.)

⁴ Parties must complete all discovery needed for filing their respective dispositive motions on the duty to defend by this date.

1	Parties' Supplemental Expert	July 26, 2021	October 25, 2021
2	Designations		
3	Parties Serve Initial Expert Reports	August 26, 2021	November 24, 2021
4	Parties Serve Rebuttal Expert Reports	September 9, 2021	December 8, 2021
5	Expert Discovery Cut-Off	October 11, 2021	January 10, 2022
6	Last Day to File Dispositive Motions	November 12, 2021	February 10, 2022
7	Mandatory Settlement Conference	January 28, 2022	April 27, 2022 ⁵
8			2:00 PM
9	Pretrial Conference ⁶	March 11, 2022	June 10, 2022
10			10:30 AM
11	Trial	April 11, 2022	July 11, 2022
12			9:00 AM

IT IS SO ORDERED.

Dated: June 2, 2021


 Hon. Bernard G. Skomal
 United States Magistrate Judge

⁵ MSC briefs must be submitted as indicated in the Scheduling Order (ECF 21) two weeks prior to the MSC.

⁶ The parties' joint motions did not address the deadlines between the MSC and the Pretrial Conference. They are continued as follows:

- Memoranda of Contentions of Fact and Law and take any other action required by Local Rule 16.1(f)(2) by **May 13, 2022**.
- Pre-trial disclosure requirements of Fed. R. Civ. P. 26(a)(3) by **May 13, 2022**.
- Counsel shall meet and take the action required by Local Rule 16.1(f)(4) by **May 20, 2022**.
- By **May 27, 2022**, plaintiff's counsel must provide opposing counsel with the proposed pretrial order for review and approval.
- The Proposed Final Pretrial Conference Order, including objections to any other parties' Fed. R. Civ. P. 26(a)(3) Pretrial Disclosures shall be prepared, served and lodged with the assigned district judge by **June 3, 2022**, and shall be in the form prescribed in and comply with Local Rule 16.1(f)(6).