

Ifrah PLLC

1717 Pennsylvania Ave, NW Suite 650
Washington, DC 20006
(202) 524-4140

1 A. Jeff Ifrah
(Admitted Pro Hac Vice)
2 David B. Deitch
(Admitted Pro Hac Vice)
3 Rachel Hirsch
(Admitted Pro Hac Vice)
4 IFRAH PLLC
1717 Pennsylvania Avenue
5 Suite 650
Washington, D.C. 20006
6 Telephone: 202-524-4140
Facsimile: 202-521-4141
7 Email: jeff@ifrahlaw.com
ddeitch@ifrahlaw.com
rhirsch@ifrahlaw.com

9 Craig S. Denney
10 Nevada Bar No. 6953
Carrie L Parker
11 Nevada Bar No. 10952
SNELL & WILMER L.L.P.
12 50 West Liberty Street
Suite 510
13 Reno, Nevada 89501
Telephone: 775-785-5440
14 Facsimile: 775-785-5441
Email: cdenney@swlaw.com
cparker@swlaw.com

16 Attorneys for Defendants

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

20 U.S. COMMODITY FUTURES TRADING
COMMISSION,

21 Plaintiff,

22 vs.

23 BANC DE BINARY LTD., et al.

24 Defendants.

Case No. 2:13-CV-00992-MMD-VCF

**UNOPPOSED MOTION FOR
MODIFICATION OF
SCHEDULING ORDER
(Sixth Request)**

26 Defendants Banc de Binary Limited (“BDB Cyprus.”), E.T. Binary Options Ltd.
27 (“ETBO”), B.O. Systems Ltd. (Seychelles) (“BO Systems”), and BDB Services Ltd. (Seychelles)
28

1 (“BDB Services”) (collectively, “BDB” or “Defendants”), by counsel, submit this unopposed
2 motion to request a two-week extension of the discovery deadline and a corresponding extension
3 of the deadlines for dispositive motions and joint pretrial order. Defendants request that the Court
4 enter an order extending the deadline for discovery from May 6, 2015, to May 20, 2015; the
5 deadline for dispositive motions from June 6, 2015, to June 20, 2015; and the deadline for the
6 parties’ Joint Pretrial Order from July 6, 2015, to July 20, 2015.

7 The undersigned certifies that, on April 7, 2015, counsel for the parties consulted by
8 telephone regarding the requested relief. Counsel for the Commodity Futures Trading
9 Commission (“CFTC” or the “Commission”) stated that the Commission does not oppose
10 Defendants’ request for relief.

11 In support of this motion, Defendants state as follows:

- 12 1. On June 5, 2013, CFTC filed its complaint against BDB Cyprus. [Dkt. 1].
- 13 2. On August 26, 2013, the Court entered a Joint Discovery Plan and Scheduling
14 Order [Dkt. 40].
- 15 3. On November 25, 2013, the Court stayed discovery pending adjudication of BDB
16 Cyprus’ motion to dismiss. [Dkt. 43].
- 17 4. On February 20, 2014, the Court denied BDB Cyprus’ motion to dismiss and
18 thereby terminated the stay. [Dkt. 44].
- 19 5. On March 7, 2014, the Court entered an Amended Scheduling Order. [Dkt. 46].
- 20 6. On May 6, 2014, CFTC amended the complaint to add ETBO, BO Systems, BDB
21 Services, and Oren Laurent as defendants.
- 22 7. On May 7, 2014, the parties filed a second request for modification of the
23 Scheduling Order [Dkt. 54], which the Court granted the following day [Dkt. 55]. Under the
24 modified order, discovery was to be completed by January 9, 2015, dispositive motions were to
25 be filed by February 11, 2015, and the parties were to submit a Joint Pretrial Order by March 11,
26 2015. [Dkt. 55].

1 8. On October 16, 2014, the parties filed a third request for modification of the
2 Scheduling Order [Dkt. 69], which the Court granted that day [Dkt. 70].

3 9. On December 5, 2014, CFTC filed a fourth request for modification of the
4 scheduling order [Dkt. 81], which the Court granted on January 15, 2015 [Dkt. 101].

5 10. On February 26, 2015, CFTC filed a fifth request for modification of the
6 scheduling order [Dkt. 106], which the Court granted on March 24, 2015 [Dkt. 114]. The Order
7 extended the discovery deadline to May 6, 2015, the deadline for dispositive motions to June 6,
8 2015, and the deadline for the parties' Joint Pretrial Order to July 6, 2015.

9 11. On March 27, 2015—before Defendants were given an opportunity to negotiate
10 deposition dates—CFTC issued amended notices of deposition, which established the following
11 schedule for depositions:

- | | | | |
|----|----|----------------|----------------|
| 12 | a. | Oren Laurent | April 13, 2015 |
| 13 | b. | BDB Cyprus | April 28, 2015 |
| 14 | c. | BDB Services | April 29, 2015 |
| 15 | d. | BO Systems | April 30, 2015 |
| 16 | e. | Yoram Menachem | May 1, 2015 |
| 17 | f. | ETBO | May 4, 2015 |

18 12. After the parties had tentatively agreed to the above-referenced deposition dates,
19 Defendants' counsel learned that Mr. Laurent's wife is expecting. The baby's due date is May 1,
20 2015. As such, Mr. Laurent has requested that his deposition be postponed until after May 1st to
21 ensure he is home when the baby arrives.

22 13. Marios Kosma is the corporate designee for the 30(b)(6) depositions scheduled for
23 April 28–30 and May 4, 2015. No other person is available to serve as the corporate defendants'
24 designee.¹ After the parties had tentatively agreed to the deposition schedule, Defendants' counsel
25 learned that Mr. Kosma's wife is expecting to deliver the couple's baby on April 24, 2015.

26
27
28 ¹ Mr. Kosma also served as the Defendants' corporate designee for the 30(b)(6) depositions in the SEC's parallel action.

1 Defendants' counsel requested that CFTC accommodate Mr. Kosma's potential conflict by
2 postponing the 30(b)(6) depositions until the first week of May 2015.

3 14. On April 7, 2015, Defendants' counsel consulted with Plaintiff's counsel regarding
4 the proposed modifications to the Scheduling Order. Plaintiff's counsel indicated that the
5 Commission does not oppose the requested relief.

6 **POINTS AND AUTHORITIES**

7 15. Rule 16(b)(4) of the Federal Rules of Civil Procedure provides that a scheduling
8 order "may be modified only for good cause and with the judge's consent." In considering
9 whether a party has shown good cause for modifying a scheduling order, a court considers the
10 moving party's reasons for seeking modification, the diligence of the party seeking the
11 amendment, and the existence or degree of prejudice to the other party. See Johnson v. Mammoth
12 Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992).

13 16. Here, Defendants seek a two-week extension of the discovery deadline to
14 accommodate the imminent birth of Mr. Laurent's and Mr. Kosma's children.

15 17. The requested extension will not prejudice the Commission, as evidenced by
16 CFTC's representation that it does not oppose the requested relief.

17 18. Defendants' request also satisfies the timing requirements under Local Rule 26-4,
18 which requires all motions for an extension of the discovery deadline to be filed at least twenty-
19 one days in advance of the expiration of the subject deadline.

20 19. Under the Court's March 24, 2015 Order, the current discovery deadline is May 6,
21 2015. Thus, Defendants' motion must be filed no later than Wednesday, April 15, 2015.

22 **CONCLUSION**

23 WHEREFORE, for good cause shown, Defendants respectfully request that the Court
24 grant their Unopposed Motion for Modification of the Scheduling Order and extend the discovery
25 deadline from May 6, 2015 to May 20, 2015; the deadline for dispositive motions from June 6,
26 2015, to June 20, 2015; and the deadline for the parties' Joint Pretrial Order from July 6, 2015, to
27 July 20, 2015.
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1 The undersigned counsel for Defendants certifies that the foregoing facts and
2 representations are true and correct.

3
4 Dated: April 7, 2015

Respectfully submitted,

IFRAH PLLC

By: /s/ A. Jeff Ifrah

A. Jeff Ifrah
(Admitted Pro Hac Vice)
David B. Deitch
(Admitted Pro Hac Vice)
Rachel Hirsch
(Admitted Pro Hac Vice)
IFRAH PLLC
1717 Pennsylvania Avenue
Suite 650
Washington, D.C. 20006
Telephone: 202-524-4140
Facsimile: 202-521-4141
jeff@ifrahlaw.com
ddeitch@ifrahlaw.com
rhirsch@ifrahlaw.com

Craig S. Denney
Nevada Bar No. 6953
Carrie L Parker
Nevada Bar No. 10952
Snell & Wilmer L.L.P.
50 West Liberty Street, Suite 510
Reno, NV 89501
775-785-5440 (office)
775-785-5411 (direct)
775-785-5441 (fax)
cdenney@swlaw.com

Attorneys for Defendants

23 IT IS SO ORDERED:
24 

25 _____
26 UNITED STATES MAGISTRATE JUDGE

27 DATED: April 8, 2015
28 _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of April, 2015, a copy of the foregoing Unopposed Motion for Modification of Scheduling Order to be filed with the Clerk of Court using the Court's CM/ECF system, which will send notification of electronic filing (NEF) to all counsel of record.

/s/ A. Jeff Ifrah
A. Jeff Ifrah