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9 **UNITED STATES DISTRICT COURT**  
 10 **DISTRICT OF NEVADA**

11 RSUI INDEMNITY COMPANY, a New  
 Hampshire Stock Company; and EVANSTON  
 12 INSURANCE COMPANY, an Illinois corporation

13 Plaintiffs,

14 vs.

15 SPORTSMAN'S ROYAL MANOR, LLC, a  
 Nevada Limited Liability Company; DOMONIQUE  
 16 BROWNING-PALMER, individually; GARY  
 BRENNAN, individually;

17 Defendants.

Case No.: 2:20-cv-01484-RFB-VCF

**STIPULATION AND  
 [PROPOSED] ORDER TO  
 EXTEND DISCOVERY  
 DEADLINES WITHIN JOINT  
 DISCOVERY PLAN AND  
 SCHEDULING ORDER (ECF NO.  
 56)**

**[FIRST REQUEST]**

18 SPORTSMAN'S ROYAL MANOR, LLC; GARY  
 19 BRENNAN;

20 Counter-claimants,

21 vs.

22 RSUI INDEMNITY COMPANY; EVANSTON  
 INSURANCE COMPANY; KAERCHER  
 23 CAMPBELL & ASSOCIATES INSURANCE  
 BROKERAGE OF NEVADA, LLC; KAERCHER  
 24 INSURANCE, AN ALERA GROUP AGENCY,  
 LLC; and DOE DEFENDANTS 1-10; ROE  
 25 DEFENDANTS 11-20;

26 Counter-defendants.

27 The parties, RSUI Indemnity Company ("RSUI"), Evanston Insurance Company  
 28 ("Evanston"), Sportsman's Royal Manor, LLC ("SRM"), Gary Brennan ("Brennan"),

1 Domonique Browning-Palmer (“Browning-Palmer”), Kaercher Campbell & Associates  
2 Insurance Brokerage of Nevada, LLC (“Kaercher Campbell”), and Kaercher Insurance, an Alera  
3 Group Agency, LLC (“Kaercher Insurance,” and with Kaercher Campbell, “Kaercher”)  
4 (collectively, the “Parties”), by and among the undersigned counsel, hereby submit this  
5 stipulation requesting that this Court extend all unexpired deadlines within the Joint Discovery  
6 Plan and Scheduling Order (ECF No. 56) by 180 days. This is the parties’ first request to extend  
7 discovery deadlines in this case. This stipulation is entered into in good faith and not for  
8 purposes of undue delay.

9 The current Joint Discovery Plan and Scheduling Order provides the following current  
10 discovery deadlines: Discovery Cut-Off: October 13, 2021; Amend Pleadings/Add Parties: July  
11 15, 2021; Initial Expert: August 16, 2021; Rebuttal Expert: September 15, 2021; Dispositive  
12 Motions: November 12, 2021; Pre-Trial Order: December 13, 2021 (subject to LR 26-1(b)(5)).  
13 (ECF No. 56.)

14 In compliance with LR IA 6-1 and 26-3, the parties submit that good cause exists to  
15 extend the above-referenced discovery deadlines by 180 days.

16 **1. Discovery completed**

17 On August 10, 2020, RSUI and Evanston filed a Complaint against SRM, Brennan, and  
18 Browning-Palmer seeking declaratory relief concerning their rights and obligations under certain  
19 policies of excess insurance RSUI and Evanston issued to SRM and Brennan for policy period  
20 March 13, 2015, to March 13, 2016, with respect to a claim for personal injury damages made by  
21 Browning-Palmer arising out of a 2015 shooting at SRM’s property. (ECF No. 1.) Browning-  
22 Palmer subsequently filed a lawsuit against SRM relating to the above-referenced claim that is  
23 currently pending in the Eighth Judicial District Court, Clark County, Nevada, entitled  
24 *Browning-Palmer v. Hines, et al.*, Case No. A-17-755668-C (the “Underlying Action”). (Id.)

25 On October 13, 2020, SRM and Brennan filed a Counterclaim against RSUI, Evanston,  
26 and new parties Kaercher arising out of the insurers’ and insurance brokers’ alleged conduct with  
27 respect to their handling of the Browning-Palmer claim and the Underlying Action as well as the  
28 sale of certain general liability and excess insurance policies to SRM and Brennan. (ECF No.

1 14.) Thereafter, RSUI, Evanston, and Kaercher filed a number of motions to dismiss and to  
2 strike the Counterclaim. (ECF Nos. 21 – 22, 25 – 27, 32 – 34, 38, and 41 – 43.) On November  
3 24, 2020, SRM and Brennan filed a First Amended Counterclaim. (ECF No. 46.) RSUI,  
4 Evanston, and Kaercher again filed a number of motions to dismiss and to strike the First  
5 Amended Counterclaim. (ECF Nos. 58 – 62.) The motions were fully briefed as of February 12,  
6 2021, and are pending at this time.

7 Counsel for the parties attended a FRCP 26(f) conference on December 16, 2020. A  
8 Joint Discovery Plan and Scheduling Order was submitted by the parties on December 18, 2020  
9 (ECF No. 55), which was entered by this Court on December 21, 2020. (ECF No. 56).

10 RSUI served its Initial Disclosures on January 15, 2021, including producing more than  
11 250 pages of documents. SRM and Brennan served their Initial Disclosures on January 15, 2021.  
12 Browning-Palmer served her Initial Disclosures on January 15, 2021. Kaercher served their  
13 Initial Disclosures on January 15, 2021. And finally, Evanston served its Initial Disclosures on  
14 January 15, 2021, including producing approximately 153 pages of documents.

15 On March 8, 2021, RSUI served written discovery on Evanston, SRM, and Kaercher.  
16 Such discovery included a First Set of Requests for Production to Evanston and Kaercher and a  
17 First Set of Interrogatories and First Set of Requests for Production to SRM.

18 On March 8, 2021, RSUI also served two Notices of Issuance of Subpoena Duces Tecum  
19 to Swett & Crawford and James River Insurance Company.

20 On March 30, 2021, SRM served written discovery on RSUI, Evanston, and Kaercher.  
21 Such discovery included a First Set of Interrogatories and First Set of Requests for Production to  
22 RSUI and Evanston, and First Set of Interrogatories, First Set of Requests for Production, and  
23 First Set of Requests for Admission to Kaercher.

24 On April 27, 2021, Kaercher served its responses to RSUI's First Set of Requests for  
25 Production, including producing approximately 700 pages of documents with a First  
26 Supplement to Initial Disclosures. In April 29, 2021, Kaercher served its responses to SRM's  
27 First Set of Interrogatories and SRM's First Set of Requests for Admission. On May 7, 2021,  
28 Kaercher served its responses to SRM's First Set of Requests for Production. Kaercher served

1 its Second Supplement to Initial Disclosures on May 18, 2021, including two new documents.

2 Because the Underlying Action remains pending with continued documentation to be  
3 added to claims files as the Underlying Action progresses and discovery activity in this action  
4 related to SRM, Brennan, RSUI, and Evanston is likely to involve disclosure of information,  
5 documents, and materials relevant to the evaluation Browning-Palmer's claim and/or the  
6 ongoing strategy for the prosecution, defense, and resolution of the Underlying Action, SRM,  
7 Brennan, RSUI, and Evanston spent a significant amount of time working out document  
8 production issues to alleviate such concerns. This effort was required to ensure that no party  
9 gained an unfair competitive advantage in the Underlying Action through production of  
10 documents in the instant case. As a result, on June 9, 2021, the parties submitted a Stipulated  
11 Confidentiality and Protective Order, which this Court entered on June 10, 2021 (ECF No. 80).  
12 The parties are also currently negotiating another stipulation to allow for the withholding of  
13 documents from Browning-Palmer related to SRM's, RSUI's, and Evanston's evaluation of the  
14 Browning-Palmer claim and/or the ongoing strategy for the prosecution, defense, and resolution  
15 of the Underlying Action. The parties anticipate submitting that stipulation to this Court shortly.  
16 Based on these ongoing discussions, RSUI and SRM provided each other and Evanston with  
17 multiple extensions of the deadlines to respond to written discovery.

18 On June 11, 2021, SRM served a Subpoena Duces Tecum on CRC Insurance Services,  
19 Inc. fka Swett & Crawford ("Swett & Crawford"), who SRM believes to be a wholesale  
20 insurance broker that procured insurance policies for SRM. On June 30, 2021, Swett &  
21 Crawford advised SRM that it would be producing responsive documents located in its central  
22 insurance files on or before July 12, 2021; however, Swett & Crawford advised that they did not  
23 undertake a search of its emails across the company based on cost and burden concerns. SRM  
24 intends to confer with Swett & Crawford to potentially limit the scope of the email searches to  
25 certain custodian and search terms. If an agreement cannot be worked out, SRM believes that  
26 motion practice may be necessary to compel Swett & Crawford's compliance with the document  
27 subpoena.

28 On June 23, 2021, RSUI served its responses to SRM's First Set of Interrogatories and

1 SRM's First Set of Request for Production of Documents, including producing more than 400  
2 pages of documents.

3 On June 23, 2021, Evanston served its responses to RSUI's First Set of Requests for  
4 Production of Documents, SRM's First Set of Interrogatories, and SRM's First Set of Request  
5 for Production of Documents. Evanston produced approximately 600 pages of documents on  
6 June 24, 2021.

7 On June 23, 2021, SRM served its responses to RSUI's First Set of Interrogatories and  
8 RSUI's First Set of Requests for Production of Documents, including producing more than  
9 1,600 pages of documents.

10 RSUI, Evanston, and SRM anticipate producing another round of documents as soon as  
11 the above-mentioned stipulation concerning withholding from Browning-Palmer has been  
12 entered by this Court.

13 On June 24, 2021, RSUI served another Notice of Issuance of Subpoena Duces Tecum to  
14 CRC Insurance Services, Inc. f/k/a Swett & Crawford, notifying the parties that it would serve  
15 the subpoena on July 2, 2021.

16 James River Insurance Company has not yet responded to the Subpoena Duces Tecum  
17 issued by RSUI.

18 Given the current deadlines, the parties need to or have retained their respective experts  
19 for this insurance coverage action.

20 **2. Discovery that remains to be completed.**

21 As mentioned above, the parties continue to negotiate a needed stipulation to allow  
22 RSUI, Evanston, SRM, and Brennan to freely produce documents relevant to Browning-Palmer's  
23 claim and defense of the Underlying Action without giving Browning-Palmer an unfair  
24 advantage in litigating the Underlying Action. Once that stipulation is entered by this Court,  
25 RSUI, Evanston, and SRM anticipate producing additional documents.

26 The parties also anticipate propounding additional written discovery requests based on  
27 the parties current responses and document productions.

28 In addition, SRM is presently engaged in the meet-and-confer process with Kaercher

1 concerning Kaercher's responses to SRM's written discovery, document production, and  
2 compliance with Fed. R. Civ. P. 26(a)(1)(A)(iv). Should the parties not be able to work out an  
3 agreement, a discovery motion may be necessary.

4 RUSI is still waiting on James River Insurance Company to respond to the Subpoena  
5 Duces Tecum.

6 As set forth above, SRM is awaiting Swett & Crawford's document production in  
7 response to the Subpoena Duces Tecum. However, based on recent communications from Swett  
8 & Crawford, SRM anticipates that it will need to participate in a meet-and-confer with Swett &  
9 Crawford, and potentially discovery motion practice if the parties cannot reach an agreement on  
10 the scope of Swett & Crawford conducting a limited email search.

11 The parties also still need to take the depositions of a number of fact witnesses, including  
12 at a minimum the Fed. R. Civ. P. 30(b)(6) designee for party as well as those individual  
13 personally involved in the procuring of the relevant insurance policies. The parties, however,  
14 reserve their right to take other depositions. These depositions need to occur after documents  
15 productions by the parties and third-parties are completed.

16 Expert discovery is also remaining. The parties will also need to take expert witness  
17 depositions, which cannot be taken until experts are disclosed and reports exchanged.

18 **3. Reason why the remaining discovery cannot be completed within the time**  
19 **limits set by the Scheduling Order.**

20 As demonstrated above, the parties have been actively engaged in discovery since  
21 attending the Fed. R. Civ. P. 26(f) conference, including propounding and responding to written  
22 discovery, document productions of thousands of pages of documents, conferring regarding the  
23 protective order and other document production issues, engaging in the meet-and-confer process,  
24 serving subpoena duces tecum on third-parties, and retaining their respective experts.

25 Nevertheless, it is clear that the parties require additional time to conduct discovery. In  
26 particular, the expert disclosure deadline is approximately one month away, yet because of  
27 numerous issues that have arisen to maintain the privacy of certain documents from Browning-  
28 Palmer that are within SRM's, Brennan's, RSUI's, and Evanston's possession regarding the

1 Browning-Palmer claim and defense of the Underlying Action, there have been delays in the  
2 parties responding to written discovery and producing documents. Although the parties did their  
3 best to swiftly work out a course of action, these delays were unavoidable. In addition, the  
4 parties are still awaiting document productions from third-parties including James River  
5 Insurance Company and Swett & Crawford. Last, SRM is presently in meet-and-confer  
6 discussions with Kaercher and intends to negotiate with Swett & Crawford to limit the email  
7 search protocol to address Swett & Crawford's cost and burden claims. However, if the parties  
8 are unable to agree, SRM anticipates that court intervention may be necessary, which will further  
9 delay discovery.

10 As such, the parties seek a 180-day extension as a reasonable accommodation to allow  
11 the parties to complete written discovery and document productions such that their respective  
12 experts will have access to all relevant materials in formulating their opinions and reports.

13 This is the parties' first request to extend discovery. Furthermore, this request is timely  
14 and complies with LR IA 6-1 and LR 26-3 and the Scheduling Order entered in this case.

15 **4. Proposed discovery schedule.**

16 The parties agree and propose a 180-day extension of the discovery deadlines as follows:

- 17 a) Discovery Cut-off Date: **April 11, 2022** (formerly October 13, 2021)
- 18 b) Amend Pleadings/Add Parties: **January 11, 2022** (formerly July 15, 2021)
- 19 c) FRCP 26(a)(2) Disclosure of Initial Expert: **February 10, 2022** (formerly  
20 August 16, 2021)
- 21 d) FRCP 26(a)(2) Disclosure of Rebuttal Expert: **March 14, 2022** (formerly  
22 September 15, 2021)
- 23 e) Dispositive Motions: **May 11, 2022** (formerly November 12, 2021)
- 24 f) Pre-Trial Order: **June 10, 2022** (formerly December 13, 2021), but if  
25 dispositive motions are filed, 30 days after decision on the dispositive motions  
26 or further order of the court.

27 The parties stipulate and request that the Court enter an order approving the proposed  
28 discovery schedule as set forth above.

1 Dated this 8th day of July, 2021.

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**ORDER**

**IT IS SO ORDERED.**

UNITED STATES MAGISTRATE JUDGE  
DATE: 7-15-2021