

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Edgar Carranza, Esq.
Nevada State Bar No. 5902
Jacquelyn Franco, Esq.
Nevada State Bar No. 13484
BACKUS, CARRANZA & BURDEN
3050 S. Durango Drive
Las Vegas, NV 89117
(702) 872-5555
(702) 872-5545 facsimile
ecarranza@backuslaw.com

Attorney for Defendants
COSTCO WHOLESALE CORPORATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SARAH ELIZABETH ALEXANDER, an individual; ROBERT ROY ALEXANDER, an individual.)	Case No.: 2:21-cv-00509-APG-VCF
)	
Plaintiffs,)	
)	
vs.)	
)	
COSTCO WHOLESALE CORPORATION, dba Costco, a Foreign Corporation, VALLEY CONTAX INC.; DOES I-X; and ROE BUSINESS ENTITIES XI – XX, inclusive,)	
)	
Defendants.)	
)	

STIPULATION AND ORDER TO EXTEND DISCOVERY PLAN AND SCHEDULING ORDER

(First Request)

Plaintiffs, SARAH ELIZABETH ALEXANDER (referred to herein as “Ms. Alexander”) and ROBERT ROY ALEXANDER (referred to herein as “Mr. Alexander”), by and through counsel, Bradley Mainor, Esq. and Ash Marie Blackburn, Esq. of the Mainor Wirth law firm, and Defendants, COSTCO WHOLESALE CORPORATION (hereinafter referred to as “Costco”), by

BACKUS, CARRANZA & BURDEN
3050 SOUTH DURANGO
LAS VEGAS, NEVADA 89117
TELE: (702) 872-5555 FAX: (702) 872-5545

BACKUS, CARRANZA & BURDEN
3050 SOUTH DURANGO
LAS VEGAS, NEVADA 89117
TELE: (702) 872-5555 FAX: (702) 872-5545

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

and through counsel, Edgar Carranza, Esq. of the law firm BACKUS, CARRANZA & BURDEN, and Defendant, VALLEY CONTAX INC. (hereinafter referred to as “Valley Contax”), by and through Alan Westbrook, Esq. of the Perry & Westbrook law firm, hereby submit the instant stipulation and order to extend the Discovery Plan and Scheduling Order pursuant to Local Rule II 26-4 as follows:

I. GOOD CAUSE SUPPORTING THE EXTENSION.

The parties come to this Court seeking a first extension of the Discovery Plan and Scheduling Order governing this product liability/personal injury case . The parties have begun to diligently move this case forward but significant discovery remains to be completed which warrants the requested extension.

A. SUMMARY OF EFFORTS THUS FAR.

As this Court is well aware, this lawsuit involves allegations that Plaintiff, SARAH ELIZABETH ALEXANDER (referred to herein as “Ms. Alexander”) suffered serious injuries to her eye after wearing prescription contact lenses, which were distributed by Valley Contax and purchased from Costco, as the result of an unspecified defect with the lenses.

On October 28, 2021, Plaintiffs filed their Complaint against Costco and Valley Contax with the Eighth Judicial District Court for Clark County, Nevada. On February 17, 2021, Costco filed its Answer denying Plaintiffs’ allegations and denying all liability for the injuries. On February 18, 2021, Valley Contax filed its Answer denying Plaintiffs’ allegations and denying all liability for the injuries claim.

On March 9, 2021, Plaintiffs filed their Request for Exemption from Arbitration in which they outlined their claimed injuries and alleged damages. On March 29, 2021, Costco filed its Notice of Removal and removed the matter to this Court based on diversity jurisdiction. On April 13, 2021, Costco filed its Statement Regarding Removal.

....

1 The parties participated in the Fed. R. Civ. P. 26(f) conference on April 14, 2021, and filed
2 their proposed Joint Discovery Plan and Scheduling Order which was entered by this Court on
3 April 28, 2021.

4 The parties also are working on a Stipulated Confidentiality Agreement and Protective
5 Order providing protections for information and material deemed confidential by Costco to help
6 facilitate the exchange of this material during discovery. This agreed upon protective order has
7 taken a few months to craft, review, negotiate and agree to but is expected to be submitted within
8 the next few weeks.

9
10 In the interim, the parties have been engaged in discovery. Initially, they exchanged their
11 respective Fed. R. Civ. P. 26 disclosures. Next, the parties served a first set of written discovery
12 requests to each other some of which have been responded to and others are still pending.

13 At the same time, Plaintiffs' medical records are being secured independently directly from
14 the health care providers. As they are being produced, supplemental disclosures are being served
15 to provide the records to all parties.

16
17 Ms. Alexander and Mr. Alexander's depositions are being scheduled to be taken by
18 Defendants. So too, Plaintiffs intend to depose Costco personnel, Karen Crawford (the Optical
19 Manager) and Aaron Whitaker (Optician), Robert Ahern of Valley Contax and Edgar Retana of
20 Dynatec Laboratories, Inc.

21 The depositions of some of Plaintiff's treating physicians will follow the completion of the
22 fact related depositions. This will, no doubt, be followed by the deposition of the parties'
23 respective experts.

24
25 **B. GOOD CAUSE.**

26 The shut down and subsequent limitations brought on by the COVID 19 pandemic initial
27 led to some delays in the parties' respective ability to participate in the deposition process. In
28 addition, counsel for Plaintiffs also was temporarily unavailable due to her maternity and the

BACKUS, CARRANZA & BURDEN
3050 SOUTH DURANGO
LAS VEGAS, NEVADA 89117
TELE: (702) 872-5555 FAX: (702) 872-5545

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

subsequent new addition to her family. Since those initial delays, the parties have diligently begun deposing the parties and witnesses involved.

Moreover, this is a significant personal injury matter that will require significant effort by both parties. Plaintiff has already identified significant past medical expenses, unknown future medical expenses expected in excess of \$100,000, loss of enjoyment of life in excess of \$1,000,000, past pain and suffering in excess of \$1,500,000 and future pain and suffering in excess of \$2,500,00, to name some of the damage components identified thus far. Significant effort will be required to address each of the damage components, and the liability portion of this case.

Once the factual discovery has been completed, the parties can turn their attention to the depositions and discovery related to Plaintiff’s medical providers and expert witnesses. This is anticipated to take at least a couple of months, but necessary to prepare this case for trial or potential resolution.

II. DISCOVERY COMPLETED TO DATE.

In accordance with LR II 26-4(a), the Parties provide the following statement of discovery completed to date:

- A. Plaintiff’s Discovery.
 - 1. Plaintiffs’ FRCP 26 initial disclosures served 04-20-21.
 - 2. Plaintiffs’ First Supplement to FRCP 26 initial disclosures served on 07-20-21.
 - 3. Plaintiff, Sarah Alexander’s Answers to Costco’s First Set of Interrogatories served on 07-23-21.
 - 4. Plaintiff, Sarah Alexander’s Responses to Costco’s Request for Production served on 07-23-21.
 - 5. Plaintiff, Robert Roy Alexander’s Answers to Costco’s First Set of

BACKUS, CARRANZA & BURDEN
3050 SOUTH DURANGO
LAS VEGAS, NEVADA 89117
TELE: (702) 872-5555 FAX: (702) 872-5545

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- Interrogatories served on 07-23-21.
6. Plaintiff, Robert Roy Alexander’s Responses to Costco’s Request for Production served on 07-23-21.
 7. Plaintiffs’ Second Supplement to FRCP 26 initial disclosures served on 08-25-21.
 8. Plaintiffs’ Third Supplement to FRCP 26 initial disclosures served on 09-02-21.
 9. Plaintiffs’ First Set of Requests for Production to Valley Contax served on 11-15-21.
 10. Plaintiffs’ Fourth Supplement to FRCP 26 initial disclosures served on 11-22-21.
 11. Plaintiffs’ First Set of Interrogatories to Costco served on 11-23.21.
- B. Costco’s Discovery.
1. Costco’s FRCP 26 initial disclosures served 05-10-21.
 2. Costco’s First Set of Interrogatories to Plaintiff, Robert Roy Alexander served 05-12-21.
 3. Costco’s First Set of Requests for Production to Plaintiff, Robert Roy Alexander served 05-12-21.
 4. Costco’s First Set of Interrogatories to Plaintiff, Sarah Alexander served 05-12-21.
 5. Costco’s First Set of Requests for Production to Plaintiff, Sarah Alexander served 05-12-21.
 6. Custodian of records depositions were set for various health care providers on 08-17-21.
 7. Costco’s First Supplement to FRCP 26 disclosures served on 10-04-21.

BACKUS, CARRANZA & BURDEN
3050 SOUTH DURANGO
LAS VEGAS, NEVADA 89117
TELE: (702) 872-5555 FAX: (702) 872-5545

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

C. Valley Contax’s Discovery.

1. Valley Contax’s FRCP 26 initial disclosures served on June 9, 2021.

III. DISCOVERY REMAINING TO BE COMPLETED.

In accordance with LR II 26-4(b), the Parties provide the following statement of discovery remaining to be completed:

A. Plaintiff’s remaining discovery.

1. Take the deposition of Karen Crawford, Costco’s Optical Manager at the relevant time.
2. Take the deposition of Aaron Whitaker, Costco’s Optician at the time.
3. Take the deposition of Costco’s Rule 30(b)(6) witness.
4. Take the deposition of Robert Ahern of Valley Contax.
5. Take the deposition of Valley Contax’s Rule 30(b)(6) witness.
6. Take the deposition of Edgar Retana of Dynatec Laboratories, Inc.
7. Plaintiff must designate initial experts and produce the required report and materials.
8. Plaintiff must designate rebuttal experts and produce the required report and materials.
9. Deposition(s) of Costco’s experts must be taken.
10. Deposition(s) of Valley Contax’s experts must be taken.

B. Costco’s remaining discovery:

1. Costco must respond to Plaintiffs’ First Set of Interrogatories.
2. Depositions of Plaintiff, Sarah Alexander.
3. Deposition of Plaintiff, Robert Roy Alexander.
4. Depositions of Plaintiff’s treating providers must be taken.
5. Costco must designate initial experts and produce the required report and

BACKUS, CARRANZA & BURDEN
3050 SOUTH DURANGO
LAS VEGAS, NEVADA 89117
TELE: (702) 872-5555 FAX: (702) 872-5545

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

materials.

6. Costco must designate rebuttal experts and produce the required report and materials.

7. Deposition(s) of Plaintiffs’ experts must be taken.

C. Valley Contax’s remaining discovery:

1. Valley Contax must respond to Plaintiffs’ First Set of Requests for Production.

2. Depositions of Plaintiff, Sarah Alexander.

3. Deposition of Plaintiff, Robert Roy Alexander.

4. Depositions of Plaintiff’s treating providers must be taken.

5. Valley Contax must designate initial experts and produce the required report and materials.

6. Valley Contax must designate rebuttal experts and produce the required report and materials.

7. Deposition(s) of Plaintiffs’ experts must be taken.

IV. WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED.

As referenced above, initially, the limitations related to the COVID 19 pandemic led to some delays and conflicts with counsels’ availability/schedule. Nonetheless, good faith efforts were made by both parties to meet the obligations required of all parties.

The parties have also devoted considerable effort to crafting, negotiating and ultimately agreeing to the Stipulated Confidentiality Agreement and Protective Order, which will be submitted to this Court for its endorsement. By agreeing to the same, the parties hope to facilitate the exchange of confidential and/or proprietary material during discovery which could avoid delays as this case moves forward.

Once the parties embarked on discovery, they have been able to move this matter forward

BACKUS, CARRANZA & BURDEN
 3050 SOUTH DURANGO
 LAS VEGAS, NEVADA 89117
 TELE: (702)872-5555 FAX: (702)872-5545

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

with the appropriate diligence. As detailed above, significant discovery has been completed including the exchange of initial disclosures, completion of multiple waves of written discovery and securing independent copies of Plaintiffs’ medical records.

Despite the diligent efforts, significant discovery remains to be completed including responses to written discovery requests, completion of Plaintiffs’ depositions, completion of Costco personnel depositions and completion of Valley Contax’s personnel depositions. Plaintiffs’ medical providers must also be deposed as will the parties’ respective expert witnesses. The experts also need to have available the deposition testimony of some of the providers in order to render a comprehensive opinion of their respective areas of expertise.

V. PROPOSED SCHEDULE FOR COMPLETING DISCOVERY.

This request for an extension of time is not sought for any improper purpose or other purpose of delay. The parties respectfully submit that this constitutes good cause for the extension. The following is a list of the current discovery deadlines and the parties’ proposed extended deadlines.

Scheduled Event	Current Deadline	Proposed Deadline
Discovery Cut Off	April 28, 2022	August 26, 2022
Amend Pleadings/Add Parties	January 28, 2022	May 28, 2022
Initial Expert Disclosures	January 28, 2022	May 28, 2022
Rebuttal Expert Disclosures	March 30, 2022	July 29, 2022
Dispositive Motions	May 27, 2022	September 24, 2022
Joint Pre-Trial Order	June 27, 2022	October 25, 2022

If dispositive motions are filed, the deadline for filing the joint pretrial order will be suspended until 30 days after decision on the dispositive motions or further court order.

....

This is the first request for extension of time in this matter and no trial date will be impacted by the extension as no such trial date has been set. The parties submit that the reasons set forth above constitute good cause for the requested extension.

Dated this 14th day of December, 2021.

Dated this 14th day of December, 2021.

BACKUS, CARRANZA & BURDEN

Mainor Wirth, LLP

By: /s/ Edgar Carranza
Edgar Carranza, Esq.
Nevada Bar No. 5902
3050 South Durango Drive
Las Vegas, Nevada 89117
Attorney for Defendants
COSTCO WHOLESALE
CORPORATION

By: /s/ Ash Marie Blackburn
Bradley Mainor, Esq.
Nevada Bar No.
Ash Marie Blackburn, Esq.
Nevada Bar No.
6018 S. Fort Apache Road, Ste, 150
Las Vegas, Nevada 89148-5652
Attorney for Plaintiffs
SARAH ELIZABETH ALEXANDER
and ROBERT ROY ALEXANDER

Dated this 14th day of December, 2021

Perry & Westbrook

By: /s/ Alan Westbrook
Alan Westbrook, Esq.
Nevada Bar No.
11500 S. Eastern, Suite 140,
Henderson, Nevada 89052
Attorneys for Defendant
VALLEY CONTAX INC.

IT IS SO ORDERED...

DATED this 15th day of December, 2021.

UNITED STATES MAGISTRATE JUDGE

BACKUS, CARRANZA & BURDEN
3050 SOUTH DURANGO
LAS VEGAS, NEVADA 89117
TELE: (702) 872-5555 FAX: (702) 872-5545

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Patti Sherretts

From: Ash Blackburn <Ash@mwinjury.com>
Sent: Sunday, December 12, 2021 9:47 PM
To: Edgar Carranza
Cc: Alan W. Westbrook; Jennifer Meacham; Lindsay Hayes; vgonzalez@perrywestbrook.com; Patti Sherretts
Subject: Re: Costco adv. Alexander...
Attachments: Stip & Order 2 Extend Scheduling Order (1st req) 12-03-21.doc

No changes. You can sign for me. Thank you.

Sent from my iPhone

On Dec 3, 2021, at 2:00 PM, Edgar Carranza <edgarcarranza@backuslaw.com> wrote:

All:

Attached please find our draft of the proposed stipulation to continue the scheduling order. I have provided the document in Word format to allow for your additions/changes. I only ask that any such changes be made in redline so that we can track. Please review and ensure that the information is accurate for each of your respective clients.

Have a good weekend. Thank you.

Edgar Carranza, Esq.
Backus, Carranza & Burden
3050 South Durango Drive
Las Vegas, Nevada 89117
(702) 872-5555 office
(702) 872-5545 fax

Patti Sherretts

From: Jennifer Meacham <jmeacham@perrywestbrook.com>
Sent: Tuesday, December 14, 2021 11:44 AM
To: Ash Blackburn; Edgar Carranza
Cc: Alan W. Westbrook; Lindsay Hayes; vgonzalez@perrywestbrook.com; Patti Sherretts; Jennifer Meacham
Subject: Re: Costco adv. Alexander...

Good morning,

Mr. Westbrook has now had an opportunity to review the Stipulation and Order to Extend Discovery Plan and Scheduling Order (First Request). He requests one change at page 6, line 2. Can you please revise to include the date of Valley Contax's FRCP 26 initial disclosures which were served on June 9, 2021? Once that change is made, he gives his authorization to use his electronic signature on same. Thank you.

Jennifer Meacham
Perry & Westbrook, A Professional Corporation
11500 S. Eastern Avenue, Ste. 140
Henderson, NV 89052

Phone: (702) 870-2400
Fax: (702) 870-8220
Email: jmeacham@perrywestbrook.com

THIS MESSAGE IS INTENDED FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE. THANK YOU.

On 12/12/2021 9:47 PM, Ash Blackburn wrote:

No changes. You can sign for me. Thank you.

Sent from my iPhone

On Dec 3, 2021, at 2:00 PM, Edgar Carranza <edgarcarranza@backuslaw.com> wrote:

All:

Attached please find our draft of the proposed stipulation to continue the scheduling order. I have provided the document in Word format to allow for your additions/changes. I only ask that any such changes be made in redline so that we can track. Please review and ensure that the information is accurate for each of your respective clients.

Have a good weekend. Thank you.

Edgar Carranza, Esq.
Backus, Carranza & Burden
3050 South Durango Drive
Las Vegas, Nevada 89117
(702) 872-5555 office
(702) 872-5545 fax