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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

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| DON NGUYEN an individual, EVAN NGUYEN, an individual, MATHEW NGUYEN, an individual;<br><br>Plaintiffs,<br>v.<br><br>PACIFIC LIFE INSURANCE COMPANY, a Nebraska Corporation; DOES I-XXX; and ABC CORPORATIONS A-Z; inclusive,<br><br>Defendants. | 2:22-cv-00449-ART-DJA<br><br>**AMENDED STIPULATED DISCOVERY PLAN & SCHEDULING ORDER – SPECIAL SCHEDULING REVIEW REQUESTED** |

Plaintiffs, DON NGUYEN, EVAN NGUYEN, and MATHEW NGUYEN, by and through their attorneys of record, LEVERTY & ASSOCIATES LAW CHTD., and Defendant PACIFIC LIFE INSURANCE COMPANY, by and through its attorneys of record, Cozen O'Conner, hereby submit the following Amended Joint Discovery Plan and Scheduling Order.

## A. INTRODUCTION

Plaintiffs brought this action against Defendant alleging breach of the insurance contract, breach of the covenant of good faith and fair dealing and breach of Nevada's Unfair Trade Practices.

## B. EARLY CASE CONFERENCE DATE AND WHO ATTENDED

The Early Case Conference was held on Wednesday, April 13, 2022. The conference was attended by Patrick R. Leverty, Esq. for Plaintiffs and Karl Riley, Esq. and Laura M. Zulick, Esq. for Defendant.

**C. SUBJECTS UPON WHICH DISCOVERY IS NEEDED**

Discovery is required concerning all of Plaintiff's allegations, as well as Defendants' affirmative defenses. This is expected to include written discovery, depositions of the parties, depositions of percipient witnesses, depositions of employees, and retention, disclosure, and depositions of expert witnesses. Neither party waives any objections to specific discovery by submitting this proposed scheduling order.

**D. ISSUES ABOUT DISCLOSURE OR DISCOVERY OF ELECTRONICALLY STORED INFORMATION**

None currently. The parties agreed that if electronically stored information is sought or becomes an issue the parties will meet and confer to try to resolve all issues without the need for Court intervention.

**E. ISSUES ABOUT CLAIMS OF PRIVILEGE OR PRODUCTION OF PROTECTED INFORMATION**

Defendant contends that certain of their documents may contain confidential information. Defendant may seek entry of a stipulated order concerning the confidentiality of discovery material. If necessary, Defendant will draft a stipulated protective order for Plaintiff's review, and parties will submit the proposed order to the Court for review and approval.

**F. STATEMENT OF REASONS WHY LONGER TIME PERIODS SHOULD APPLY TO THIS CASE**

At the joint case conference, the parties agreed good cause exists for the calculation of deadlines to begin from the date of the Fed. R. Civ. Pro. Rule 26(f) conference. Defendant Pacific Life filed an answer to the complaint on March 21, 2022. Given counsels' respective schedules, an early case conference was not held until Wednesday, April 13, 2022. The parties believe the calculation of deadlines from the date the defendant answered, as proscribed by LR 26(e)(1), is unworkable because the parties would lose 23 days of discovery. In addition, Defendant Pacific Life identified four corporate representatives. Each of the four corporate representatives reside out of state. In addition, one of the Plaintiffs, Don Nguyen, is an

interstate commercial truck driver, which makes scheduling his deposition more difficult than the average witness. Finally, Pacific Life intends to depose the insured's medical providers, whose demanding schedules can also present scheduling difficulties. Accordingly, the parties request all deadlines at this time be calculated from the date of the Fed. R. Civ. Pro., Rule 26(f) conference.

**G. ALTERNATIVE DISPUTE RESOLUTION**

The parties have discussed alternative dispute resolutions and agree to continue to discuss settlement and explore the possibilities of further alternative dispute resolution as this case proceeds.

**H. ALTERNATIVE FORMS OF CASE DISPOSITION**

The parties have discussed the possibility of trial by the Magistrate Judge under 28 U.S.C. § 636(c) and Fed. R. Civ. Pro. 73 and agree that this case is properly suited before the District Court.

**I. ELECTRONIC EVIDENCE (LR 26-1(b)(9))**

A jury trial has been demanded. (*See* ECF 4). The parties certify they discussed presenting evidence in an electronic format to jurors. The parties agreed that it makes sense during discovery to produce documents in PDF form, which is an electronic format that is compatible with the court's electronic jury evidence display system. The parties further agreed that prior to trial they will contact the assigned judge's courtroom administrator for instructions about how to prepare evidence in an electronic format and other requirements for the court's electronic jury evidence display system.

**J. THE PARTIES' PROPOSED DISCOVERY PLAN**

The parties propose the following timeline:

1. Initial Disclosures. The parties both made their initial Federal Rule of Civil Procedure 26 disclosures by **Friday, April 29, 2022.** This date was within sixteen (16) days from the date of the Fed. R. Civ. Pro., Rule 26(f) conference.

2. Discovery Cut-off Date. The discovery cut-off will be **Monday, October 10, 2022**. This date is one hundred eighty (180) days from the Fed. R. Civ. Pro., Rule 26(f) conference.

3. Amending the Pleadings and Adding Parties. Motions to amend the pleadings or add parties (Fed. R. Civ. Pro., Rules 13, 14, 19 and 20) shall be filed at least ninety (90) days before the discovery cut-off date on or before **Tuesday, July 12, 2022.**

4. FRCP 26(a)(2) Disclosures (Experts). The Plaintiffs propose that the parties follow the timelines set forth under Fed. R. Civ. Proc. 26.

   a. Initial Disclosures: Expert witness disclosures shall be made no later than sixty (60) days before the discovery cut-off date on or before **Thursday, August 11, 2022.**

   b. Rebuttal Disclosures: Disclosures respecting rebuttal experts (if any) shall be made no later than thirty-two (32) days after the initial disclosure of experts on or before **Monday, September 12, 2022.**

**5.** Dispositive Motions. Dispositive motions shall be filed no later than thirty (30) days after the discovery cut-off date on or before **Wednesday, November 9, 2022.**

**6.** Motions in Limine. Motions in Limine should be submitted thirty (30) days prior to trial, unless otherwise ordered by the Court.

**7.** Pre-Trial Order. The joint pre-trial order shall be filed no later than thirty (30) days after the date set for filing dispositive motions on or before **Friday, December 9, 2022**. In the event dispositive motions are filed, the date for filing the joint pre-trial order shall be suspended until thirty (30) days after the decision on the dispositive motions or until further order of the Court.

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**8.** Extension of Scheduled Deadlines. All motions or stipulations to extend discovery shall be received by the Court within twenty-one (21) days before the discovery cut-off date on or before **Monday, September 19, 2022**.

DATED: This 9th day of May 2022.

LEVERTY & ASSOCIATES LAW CHTD.

/S/ *Patrick Leverty*
Patrick R. Leverty, Esq.
Vernon E. Leverty, Esq.
832 Willow St.
Reno, NV 89502
*Attorneys for Plaintiffs Don Nguyen, Evan Nguyen and Matthew Nguyen*

DATED: This 9th day of May 2022.

COZEN O'CONNOR

/S/ *Laura Zulick*
Karl Riley, Esq.
Laura M. Zulick, Esq.
3753 Howard Hughes Parkway, Ste. 200
Las Vegas, NV 89169
*Attorneys for Defendant Pacific Life Insurance Company*

**ORDER**

IT IS SO ORDERED.

DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE

DATED: May 10, 2022

**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I certify I am an employee of the law firm of Leverty & Associates Law Chtd., and that on this date, a true and correct copy of the foregoing document was electronically served through the Court's electronic filing system (CM/ECF) upon all parties on the master e-file and serve list as follows:

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| Karl O. Riley, Esq.<br>COZEN O' CONNOR<br>3753 Howard Hughes Parkway, Ste. 200<br>Las Vegas, NV 89169<br>*Attorneys for Defendant Pacific Life Insurance Company* | Laura M. Zulick<br>COZEN O'CONNOR<br>1650 Mark Street, Suite 2800<br>Philadelphia, Pennsylvania 19103<br>*Attorneys for Defendant Pacific Life Insurance Company* |

DATED: This 9th day of May2022.

*/S/ L Jasso*
An employee of Leverty & Associates Law Chtd.