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KEY INSURANCE COMPANY

10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

13 LUCIA COVARRUBIAS, an Individual,
14 MARIA DE JESUS RODRIGUEZ, an
Individual, ESTATE OF OSCAR
15 ALFREDO AYALA, Individually and as
Assignees of PABLO C. TORRES-
16 ESPARZA

CASE NO.: 2:23-cv-00291-APG-DJA

17 Plaintiff,

18 vs.

19 KEY INSURANCE COMPANY, and
20 DOES I - V, and ROE CORPORATIONS
I - V, inclusive,

21 Defendants.
22

23 **STIPULATION TO EXTEND TIME TO COMPLETE DISCOVERY**
24 **(FIRST REQUEST)**

25 IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiffs LUCIA
26 COVARRUBIAS, MARIA DE JESUS RODRIGUEZ, and the ESTATE OF OSCAR
27 ALFREDO AYALA and their counsel of record, David F. Sampson, Esq., of the Law Offices of
28 David Sampson, and Defendant KEY INSURANCE COMPANY, through its counsel of record

1 James P.C. Silvestri, Esq., and Ali R. Iqbal, Esq., of the law firm Pyatt Silvestri, that the
2 discovery deadlines shall be extended 120 days, pursuant to L.R. 26-3. This is the first request
3 made by the parties. The parties set forth the following information in support of their
4 stipulation.

5 **a) Statement Specifying the Discovery Completed.**

6 Plaintiffs made their initial disclosures as required by FRCP 26(a)(1) on April 25, 2023,
7 and made a supplemental disclosure on June 21, 2023. Defendant made its initial disclosures as
8 required by FRCP 26(a)(1) on April 5, 2023, made a supplemental disclosure on May 25, 2023,
9 and made a second supplemental disclosure on June 20, 2023. On April 25, 2023, Plaintiffs
10 served their first sets of Interrogatories and Requests for Production of Documents on Defendant.
11 On May 25, 2023, Defendant responded to Plaintiffs' Interrogatories and Requests for
12 Production of Documents. On June 22, 2023, Defendant served supplemental responses to
13 Plaintiffs' Requests for Production of Documents and supplemental Answers to Plaintiffs'
14 Interrogatories. On July 14, 2023, Defendant served their first sets of Interrogatories, Requests
15 for Production of Documents, and Requests for Admissions to Plaintiffs. Defendant has
16 requested the availability of Plaintiffs for depositions.

17 **b) Discovery That Remains to Be Completed.**

18 The extension is necessary so the parties can conduct the discovery after receiving
19 documents and responses to the discovery requests. The parties further need to conduct the
20 discovery in order to provide complete expert reports, which include depositions of Plaintiffs,
21 and Key Insurance Company representatives, and other witnesses as discovery continues.
22 Additionally, a Motion for Protective Order based on a Meet and Confer held between the parties
23 on July 6, 2023, was filed on July 21, 2023 (Docket #17), regarding documents to be produced
24 by Defendant, which is pending in this Court.

25 **c) Reasons Discovery Was Not Completed Within the Time Limits and Needs to Be
26 Extended**

27 The parties are making a request to extend the deadline to amend pleadings and add
28 parties, the initial expert deadlines, and the rebuttal expert deadline, all of which have closed.
Pursuant to FRCP 6(b)(1)(B) and LR IA 6-1(a) there is excusable neglect to allow the extension

1 of these deadlines. The Court previously denied the party's request, without prejudice, because
2 no excusable neglect was identified. Below is an analysis of excusable neglect that exists within
3 this matter.

4 There are at least four factors in determining whether neglect is excusable: (1) the danger
5 of prejudice to the opposing party; (2) the length of the delay and its potential impact on the
6 proceedings; (3) the reason for the delay; and (4) whether the movant acted in good faith.

7 *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd.*, 507 U.S. 380, 395, 113 S. Ct. 1489, 123 L. Ed.
8 2d 74 (1993). The determination of whether neglect is excusable is ultimately an equitable one,
9 taking account of all relevant circumstances surrounding the party's omission. *Pioneer*, 507 U.S.
10 at 395. This equitable determination is left to the discretion of the district court. *Pincay v.*
11 *Andrews*, 389 F.3d 853, 860 (9th Cir.2004). *Erection Co. v. Archer W. Contrs., LLC*, 2013 U.S.
12 Dist. LEXIS 159029, *7.

13 First, there is no danger to either party in the extension of these deadlines because both
14 undersigned counsels have stipulated to allow all deadlines to be extended by 120 days. Second,
15 the length of the delay is minimal as the deadlines sought to be extended recently expired. The
16 parties are jointly seeking an extension of 120 days in order to conduct additional discovery
17 which is required by both parties. This includes the review of discovery responses, depositions
18 by both sides as to pertinent witnesses including experts, as well as additional documents to be
19 produced by Defendant in response to Plaintiffs' discovery. These documents would be relevant
20 to any retained expert by the respective parties. Therefore, this gives the parties additional time
21 to resolve these issues, pursuant to Defendant's Motion for Protective Order (Docket #17) filed
22 on July 21, 2023. The parties have also held multiple Meet and Confers as to discovery responses
23 and have been working together amicably to resolve these issues without court intervention.

24 Third, the reason for the delay is due to the pending disclosure of documents regarding
25 Defendant's policies and procedures in handling bodily injury claims. The parties respectfully
26 disagree as to how these documents should be produced in light of the request for confidentiality
27 by Defendant. Plaintiff served Requests for Production of Documents and Interrogatories to
28 Defendant on April 25, 2023. Defendant then responded to Plaintiffs' Interrogatories and
Requests for Production of Documents on May 25, 2023. On that same day Plaintiffs requested a

1 Meet and Confer with respect to both sets of responses. The parties held a Meet and Confer on
2 June 6, 2023, in which the parties discussed these issues. Following that Meet and Confer, on
3 June 22, 2023, Defendant provided a draft stipulation for protective order and confidentiality for
4 Plaintiffs. Defendant then provided supplemental responses to discovery on June 25, 2023. On
5 June 29, 2023, Plaintiffs stated they could not agree to a protective order and confidentiality. The
6 parties then held another Meet and Confer on July 6, 2023, but ultimately could not agree after a
7 meaningful discussion on the matter. Defendant did not have authority disclose these documents
8 unless and until a Protective Order was in place. A Motion regarding those issues was filed on
9 July 21, 2023.

10 Defendant's policies and procedures are necessary in this matter for further discovery for
11 both parties, as this case centers on allegations by Plaintiffs of Bad Faith against Defendant.
12 Since there has been no agreement as to how these policies and procedures should be produced,
13 Defendant could not move forward with retaining an expert. This issue could be resolved with a
14 Protective Order, which would require that any respective expert keep these documents
15 confidential in their review, without that determination in this case experts could not be retained
16 which in turn caused the delay of disclosing any such expert, from Defendant's perspective. In
17 turn, from Plaintiff's perspective there are experts that would not be willing to be retained if a
18 Protective Order was in place. Therefore, neither party was able to disclose an expert.

19 Finally, given the parties have gone back and forth on certain discovery responses and
20 certain documents to be produced, the parties have acted in good faith, they have not attempted
21 to delay discovery in this matter and are moving forward with depositions in order to further
22 discovery. Therefore, because of the factors identified above, excusable neglect is present in
23 order to extend the deadlines as proposed below, including ones that have closed, e.g., deadline
24 to Amend pleadings and add parties, the initial and rebuttal expert deadlines.

25 **d) Proposed Schedule for Completing All Remaining Discovery**

26 In order to allow time for the parties to resolve and complete additional necessary
27 discovery before they exchange expert reports, the parties which to extend existing deadlines by
28 120 days as follows:

	<u>Current Date</u>	<u>Proposed Date</u>
Amend Pleadings and Add Parties	May 23, 2023 (closed)	September 22, 2023
Initial Expert Disclosures	June 24, 2023 (closed)	October 23, 2023¹
Rebuttal Expert Disclosures	July 24, 2023 (closed)	November 21, 2023
Close of Discovery	August 23, 2023	December 21, 2023
Dispositive Motions	September 22, 2023	January 22, 2024²
Joint Pretrial Order	October 22, 2023	February 19, 2024

Based on the foregoing, the parties respectfully request this Court grant their Stipulation an Order to Extend Discovery Deadlines (First Request).

Respectfully Submitted this 25th day of July 2023.

PYATT SILVESTRI

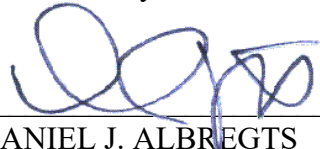
LAW OFFICES OF DAVID SAMPSON

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Attorney for Plaintiffs

IT IS SO ORDERED.

DATED: July 26, 2023



DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE

¹ The actual date falls on a Sunday, October 22, 2023.

² The actual date falls on a Saturday, January 20, 2024.

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ORDER

IT IS SO ORDERED.

UNITED STATES MAGISTRATE JUDGE