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13 *Attorneys for Plaintiff*

14 UNITED STATES DISTRICT COURT
15 FOR THE DISTRICT OF NEVADA

16 CONSTANCE BENTON, Special Administrator of) CASE NO. 2:23-cv-01034-GMN-BNW
17 the Estate of ROBERT BARCONIA, JR., deceased,)
18)
19 Plaintiff,) **STIPULATION AND ORDER TO**
20) **EXTEND DISCOVERY PLAN AND**
21 v.) **SCHEDULING ORDER**
22) **(FIFTH REQUEST)**
23 WALMART INC., a Delaware Corporation d/b/a)
24 WALMART SUPERCENTER #3728; ROE)
25 VENDOR CORPORATION; ROE SECURITY)
26 COMPANY, DOES I-X and ROE CORPORATIONS)
27 II-X, inclusive,)
28)
29 Defendants.)

30 COME NOW Plaintiff, CONSTANCE BENTON, Special Administrator of the Estate of
31 ROBERT BARCONIA, JR. (“PLAINTIFF”), Defendant, WALMART, INC. d/b/a WALMART
32 SUPERCENTER #3728 (“WALMART”), and Defendant BROSANAN RISK CONSULTANTS, LTD.
33 (“BROSANAN”), by and through their respective counsel, and hereby submit this Stipulation and Order
34 to Extend Discovery Plan and Scheduling Order (Fifth Request) pursuant to LR IA 6-1 and LR 26-3
35 as follows:

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I.

PROCEDURAL HISTORY

On May 25, 2023, Plaintiff Constance Benton, as Special Administrator of the Estate of Robert Barconia, Jr., filed her Complaint against Defendant Walmart in the Eighth Judicial District Court for Clark County, Nevada. On June 16, 2023, Defendant filed its Answer to Plaintiff’s Complaint. On July 5, 2023, Defendant filed its Petition for Removal and removed the matter to this Court based on diversity jurisdiction. On July 18, 2023, Defendant filed its Statement Regarding Removal. On August 3, 2023, Plaintiff filed her Motion to Remand to State Court, which Defendant opposed on August 17, 2023, and the Court denied on October 13, 2023. Meanwhile, the parties participated in the Fed. R. Civ. P. 26(f) conference on August 31, 2023, and their proposed Joint Discovery Plan and Scheduling Order was entered by this Court on September 6, 2023. That same day, the Court also approved the parties’ Stipulated Protective Order regarding disclosure of Confidential Information. On October 26, 2023, the parties, along with the City of North Las Vegas, submitted their proposed Stipulative Protective Order, which the Court approved on October 31, 2023.

Plaintiff submitted her Stipulation and Order to Amend the Complaint on February 27, 2024 and the court approved the Stipulation on February 28, 2024. Plaintiff filed her First Amended Complaint on March 1, 2024. Defendant Brosnan Risk Consultants, Ltd. filed its Answer to First Amended Complaint on March 25, 2024.

On November 28, 2023, the parties stipulated to extend the Discovery Plan and filed their Stipulation and Order to Extend Discovery Plan and Scheduling Order (First request) on November 29, 2023, which this Court approved on December 1, 2023.

On January 31, 2024, the parties stipulated to extend the Discovery Plan and filed their Stipulation and Order to Extend Discovery Plan and Scheduling Order (Second request) on January 31, 2024, which this Court approved on February 2, 2024.

On March 22, 2024, newly added Defendant Brosnan Risk Consultants, LTD. filed its Answer in the case. Thereafter, on May 9, 2024, the Court approved and entered the parties’ Amended Discovery Plan.

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On or about July 29, 2024, the parties stipulated to extend the Discovery Plan and filed their Stipulation and Order to Extend Discovery Plan and Scheduling Order (third request) on July 29, 2024, which the Court approved on July 30, 2024.

On or about October 17, 2024, the parties stipulated to extend the Discovery Plan and filed their Stipulation and Order to Extend Discovery Plan and Scheduling Order (fourth request) on October 17, 2024, which the Court approved on October 18, 2024.

I.

DISCOVERY COMPLETED

To date, the parties have completed the following discovery:

1. Plaintiff’s FRCP 26 Initial Disclosure, served September 8, 2023;
2. Defendant Walmart’s FRCP 26 Initial Disclosure, served September 15, 2023;
3. Defendant Walmart’s First Supplement to FRCP 26 Initial Disclosure, served December 28, 2023;
4. Defendant Walmart’s Second Supplement to FRCP 26 Initial Disclosure, served December 28, 2023;
5. Defendant Brosnan’s FRCP 26 Initial Disclosure, served April 29, 2024;
6. Defendant Brosnan’s First Supplement to FRCP 26 Initial Disclosure, served October 17, 2024;
7. Plaintiff’s First Set of Request for Production to Defendant Brosnan, served September 17, 2024;
8. Defendant Brosnan’s Responses to Plaintiff’s First Set of Request for Production, served October 17, 2024;
9. Plaintiff’s First Set of Request for Interrogatories to Defendant Brosnan, served September 17, 2024;
10. Plaintiff’s First Set of Request for Production to Defendant Walmart, served October 6, 2023;
11. Defendant Walmart’s Responses to Plaintiff’s First Set of Request for Production, served December 28, 2023;

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1 12. Plaintiff’s First Set of Request for Interrogatories to Defendant Walmart, served
2 October 6, 2023;

3 13. Defendant Walmart’s Responses to Plaintiff’s First Set of Interrogatories, served
4 January 4, 2024;

5 14. Plaintiff’s Notice of Intent to Serve Subpoena Duces Tecum to North Las Vegas
6 Police Department, served October 6, 2023;

7 15. Defendant Brosnan’s Second Supplement to FRCP 26 Initial Disclosure, served
8 October 21, 2024.

9 **III.**

10 **DISCOVERY REMAINING TO BE COMPLETED**

11 Discovery to be completed includes:

- 12 1. Deposition of Plaintiff;
- 13 2. Deposition of Defendants’ employees;
- 14 3. Deposition of FRCP 30(b)(6) witnesses;
- 15 4. Deposition of percipient witnesses;
- 16 5. Initial Expert disclosures;
- 17 6. Rebuttal Expert disclosures;
- 18 7. Deposition of Experts; and
- 19 8. Additional discovery as needed.

20 Good cause exists to continue the current Discovery Plan and Scheduling Order. The parties
21 are diligently working to move the case forward. However, the third-party assailant in this matter
22 recently accepted a plea deal and is awaiting sentencing (set for December 4th, 2024). The parties
23 are only now able to obtain information from the homicide investigation that will be crucial to the
24 claims and defenses in this matter. As such, the additional time is necessary to obtain this
25 information and provide to the various experts retained in this matter to further any opinions
26 reached.

27 Therefore, the Parties have agreed to a thirty (30) day extension to allow the Parties to
28 complete the necessary discovery. Specifically, the Parties believe this extension is necessary

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because the parties will need to schedule the remaining depositions, including Plaintiff’s deposition, conduct expert discovery, and serve additional written discovery.

No trial has been set on this matter and neither party will be prejudiced by the requested extension.

IV.

PROPOSED DISCOVERY SCHEDULE AND TRIAL DATE

	Current Date	Proposed Date
Discovery Cut-Off:	02/28/2025	03/31/2025
Motions to Amend Pleadings/Add Parties	12/02/2024	01/03/2025
Initial Expert Disclosures:	12/02/2024	01/03/2025
Rebuttal Expert Disclosures:	01/01/2025	01/31/2025
Dispositive Motions:	03/31/2025	04/30/2025
Joint Pretrial Order	04/30/2025	05/30/2025

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1 No trial date will be impacted by the extension as no such trial date has been set. The parties
2 submit that the reasons set forth above constitute good cause for the requested extension.

3 DATED this 26th day of November 2024.

4 VEGAS VALLEY INJURY LAW

OLSON CANNON & GORMLEY

5 */s/ Kristopher T. Zeppenfeld*

/s/ Max E. Corrick, II

6
7 KRISTOPHER T. ZEPPEFELD, ESQ.
8 Nevada Bar No. 12144
9 710 S. Seventh Street, Suite C
10 Las Vegas, NV 89101
11 *Attorneys for Plaintiff*

MAX E. CORRICK, II
Nevada Bar No. 006609
9950 West Cheyenne Avenue
Las Vegas, NV 89129
Attorney for Brosnan Risk Consultants, Ltd.

12 SKANE MILLS LLP

13 */s/ Sarai L. Thornton*

14 SARAI L. THORNTON, ESQ. (#11067)
15 1120 Town Center Drive, Suite 200
16 Las Vegas, Nevada 89144
17 *Attorneys for, Walmart Inc. dba Walmart*
18 *Supercenter #3728*

19 **IT IS SO ORDERED**

20 **DATED:** 10:15 am, November 27, 2024

21 

22 **BRENDA WEKSLER**
23 **UNITED STATES MAGISTRATE JUDGE**
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Tuesday, November 26, 2024 at 14:07:16 Pacific Standard Time

Subject: Re: [External Sender] Benton/Barconia adv. Walmart and Brosnan
Date: Tuesday, November 26, 2024 at 2:06:11 PM Pacific Standard Time
From: Sarai L. Thornton
To: Kris T. Zeppenfeld, Esq.
CC: Max Corrick, Elizabeth Spaur, Jane Hollingsworth, Yesenia Lutes, Allison Hardy, Jennifer Reynhout
Attachments: image001.png, image002.png

You may affix my e-signature.

Thanks,

Sarai
Sent from my iPhone

On Nov 26, 2024, at 12:03PM, Kris T. Zeppenfeld, Esq. <kz@vegasvalleylaw.com> wrote:

Counsel,

Attached is the proposed SAO we discussed. Please let us know if we can affix your e-signatures and submit. Otherwise, let us know if you have any proposed revisions.
Thank you,

Kris

<[image002.png](#)>

Vegas Valley Injury Law
Kris T. Zeppenfeld, Esq.
Executive Shareholder

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From: Max Corrick <mcorrick@ocgattorneys.com>

Date: Monday, November 25, 2024 at 12:05 PM

To: Kris T. Zeppenfeld, Esq. <kz@vegasvalleylaw.com>, Sarai L. Thornton <sthornton@skanemills.com>, Elizabeth Spaur <espaur@skanemills.com>

Cc: Jane Hollingsworth <jhollingsworth@ocgattorneys.com>, Yesenia Lutes <ylutes@skanemills.com>, Allison Hardy <AHardy@vegasvalleylaw.com>, Jennifer Reinhout <jreynhout@vegasvalleylaw.com>
Subject: RE: Benton/Barconia adv. Walmart and Brosnan

That's fine on my end.

Max Corrick
OLSON CANNON & GORMLEY
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129

Office: 702-384-4012
Direct Dial: 702-383-1657

**Please be advised our firm's email addresses currently mcorrick@ocgas.com will expire.
New email address: mcorrick@ocgattorneys.com

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From: Kris T. Zeppenfeld, Esq. <kz@vegasvalleylaw.com>
Sent: Monday, November 25, 2024 12:01 PM
To: Max Corrick <mcorrick@ocgattorneys.com>; Max Corrick <mcorrick@ocgattorneys.com>; Sarai L. Thornton <sthornton@skanemills.com>; Elizabeth Spaur <espaur@skanemills.com>
Cc: Jane Hollingsworth <jhollingsworth@ocgattorneys.com>; Yesenia Lutes <ylutes@skanemills.com>; Allison Hardy <AHardy@vegasvalleylaw.com>; Jennifer Reinhout <jreynhout@vegasvalleylaw.com>
Subject: Benton/Barconia adv. Walmart and Brosnan
Importance: High

Counsel,

We have expert disclosures due on December 2nd in the above matter. I have been informed that the assailant is set for sentencing on December 4th. Are you agreeable to kicking out discovery/expert dates another 30 days? Happy to discuss. I am reachable throughout the week.

Kris

<image001.png>

Vegas Valley Injury Law
Kris T. Zeppenfeld, Esq.
Executive Shareholder

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<SAO to Extend Disco (5th Request).docx>