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

10 DONNA WILCOX, and individual,
 11 Plaintiff,
 12 v.
 13 SAM’S WEST, INC, a Foreign Corporation;
 DOE EMPLOYEES OF SAM’S WEST, INC,
 14 DOES 1-20 and ROE BUSINESS ENTITIES
 1-20, inclusive,
 15 Defendants.

Case No.: 2:24-cv-01054-CDS-MDC
**DISCOVERY PLAN AND SCHEDULING
 ORDER**
**SPECIAL SCHEDULING REVIEW
 REQUESTED**
 (LR 26-1(a))

17 Plaintiff DONNA WILCOX (“Plaintiff”) and Defendant SAM’S WEST, INC.
 18 (“Defendant”) by and through their respective counsel of record, held a telephonic conference on
 19 July 5, 2024, and by and through their respective counsel of record, file this, their Stipulated
 20 Discovery Plan and Scheduling Order pursuant to Fed. R. Civ. P. 26(f) and Local Rule 26-1. The
 21 parties respectfully request a Special Scheduling Review. Plaintiff is alleging past medical
 22 expenses of at least \$335,901.55 and is pending receipt of additional records/bills. Defendant will
 23 require additional time to independently obtain plaintiff’s medical records for treatment of any
 24 potential pre-existing conditions/injuries that may have a bearing on the case. There are also
 25 numerous treating physicians who have treated Plaintiff that may need to be deposed. Liability is
 26 also contesetd in this case, and as such, the parties anticipate retaining liability experts to provide
 27 expert opinions and to potentially conduct one or more site inspections. The parties also anticipate
 28 retaining one or more medical experts. Additional time will be required to ensure all the necessary

1 experts are provided with sufficient information to form their opinions, and for the parties to
2 depose said experts.

3 The parties anticipate initial discovery will consist of written discovery requests exchanged
4 between the parties, which will require a minimum of 30 days to receive responses. Concurrently
5 with the service of written discovery, Defendant anticipates it will subpoena Plaintiff's identified
6 medical providers to independently obtain Plaintiff's medical records from before the subject
7 incident to evaluate potential relevant pre-existing injuries/conditions. Defendant anticipates it
8 could take 30 days or more to receive responses to these subpoenas. Upon receipt of written
9 discovery responses, the parties anticipate they will proceed with taking each party's deposition,
10 which will likely require 14 to 30 days or more to schedule depending on the parties' availability.
11 The parties also anticipate multiple depositions of percipient fact witnesses will be taken, including
12 depositions of Defendant's employees with relevant information, as well as third-party witnesses
13 to the subject incident.

14 Following Plaintiff's deposition, Defendant anticipates retaining one or more medical
15 experts to opine on Plaintiff's treatment following the subject incident, as well as whether Plaintiff
16 requires any future treatment. Given the amount of damages being alleged by Plaintiff in this case,
17 Defendant anticipates a FRCP Rule 35 examination will be necessary, which Defendant anticipates
18 will take 30 to 60 days to set depending on Plaintiff's and Defendant's expert's availability.
19 Defendant anticipates an additional 30 days will be required following the examination for
20 Defendant's medical expert to prepare an initial report. Concurrently, the parties anticipate that,
21 after initial discovery has been conducted, a site inspection of the subject premises will be
22 conducted by one or more liability experts. The parties will then need to coordinate depositions of
23 their respective retained experts, and Defendant anticipates it will take one or more depositions of
24 Plaintiff's treating physicians. In addition, although the parties intend to diligently pursue
25 discovery in this case, the parties realistically anticipate that, given the multitude of individuals
26 anticipated to be involved in discovery, scheduling/availability issues will arise resulting in
27 unexpected delays. The parties anticipate these issues will be further exacerbated by the upcoming
28 holiday season.

1 Given the above, the parties agree that more time than 180 days is necessary to complete
2 discovery in this case. The parties are requesting a discovery cut-off date of 225 days from the date
3 Defendant filed its answer to Plaintiff's complaint. All other proposed scheduling order dates are
4 based on this court approving the 225 day time period to complete discovery.

5 **PROPOSED SCHEDULE**

6 **I. FED. R. CIV. P. 26(a) INITIAL DISCLOSURE**

7 Parties have agreed to exchange initial disclosures no later than **July 19, 2024**, which is 14
8 days after the Rule 26 Conference was held. The parties expressly agree any document productions
9 shall be bates-stamped with the parties' respective identifying bates system. Other than this, no
10 changes are necessary in the form or requirement for disclosures under Fed. R. Civ. P. 26(a).

11 **II. ESTIMATE OF TIME REQUIRED FOR DISCOVERY**

12 **A. DISCOVERY CUT-OFF DATE**

13 Discovery will take 225 days from May 23, 2024, which is the date Defendant filed its
14 Answer to Plaintiff's Complaint, the first responsive pleading. Accordingly, all discovery must be
15 completed no later than **January 3, 2025**. The parties may conduct discovery within the scope of
16 Fed. R. Civ. P. 26(b). Subject to the foregoing, discovery need not be limited or focused on
17 particular issues or conducted in phases.

18 **B. AMENDING THE PLEADINGS AND ADDING PARTIES**

19 Unless stated herein or ordered by the Court, the date for filing motions to amend the
20 pleadings or to add parties shall not be later than 90 days prior to the discovery cut-off date, and
21 therefore not later than **October 7, 2024** (Note: 90 days prior to January 3, 2025 falls on a Saturday,
22 as such, the proposed date was moved to the following Monday).

23 **C. FED. R. CIV. P. 26(a)(2) DISCLOSURES (EXPERTS)**

24 In accordance with Fed. R. Civ. P. 26(a)(2), disclosures identifying experts shall be made
25 60 days prior to the discovery cut-off date, and therefore not later than **November 4, 2024** and
26 disclosures of rebuttal experts shall be made 30 days after the initial disclosure of experts, and
27 therefore not later than **December 4, 2024**.

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D. DISPOSITIVE MOTIONS

The parties shall file dispositive motions 30 days after the discovery cut-off date, and therefore not later than **February 3, 2025** (Note: 30 days after January 3, 2025 falls on a Sunday, as such, the proposed date was moved to the following Monday).

E. PRETRIAL ORDER

If no dispositive motions are filed, and unless otherwise ordered by this Court, the Joint Pretrial Order shall be filed 30 days after the date set for filing dispositive motions, and therefore not later than **March 5, 2025**. In the event dispositive motions are filed, the date for filing the Joint Pretrial Order shall be suspended until 30 days after the Court enters a ruling on the dispositive motions, or otherwise by further order of the Court. The disclosures required by Fed. R. Civ. P. 26(a)(3), and any objections thereto, shall be included in the Joint Pretrial Order.

F. ALTERNATIVE DISPUTE RESOLUTION

The parties certify that they met and conferred about the possibility of using alternative dispute-resolution processes including mediation, arbitration, and if applicable, early neutral evaluation.

G. ALTERNATIVE FORMS OF CASE DISPOSITION

The parties certify that they considered consenting to trial by a magistrate judge and use of the Short Trial Program.

H. ELECTRONIC EVIDENCE

1. Electronically Stored Information and Electronic Service of Discovery

The parties have discussed the retention and production of electronic data. The parties consent to electronic service of any and all discovery documents. Said service shall be deemed completed by sending an email with the related discovery document(s) to all service addresses for counsel and counsel’s staff on record with the court for the above-captioned matter at the time of service. The parties further agree, when serving by email, if any error or delayed delivery message is received by the sending party, that party shall promptly (within one business day of receipt of such message) notify the intended recipient(s) of the message and serve the pleading or other papers by other authorized means. This consent does not preclude counsel from serving discovery

1 documents by mail in accordance with Fed. R. Civ. 5(b), including service of electronic files
2 copied to compact disc or similar storage media. Whether served by e-mail or by mail, three
3 additional days shall be added to the timeline within which to respond, as provided for in Fed. R.
4 Civ. P. 6(d). To the extent discovery requests are served on a Saturday, Sunday, or legal holiday,
5 service will be deemed effective on the next day that is not a Saturday, Sunday, or legal holiday.
6 The parties reserve the right to revisit this issue if a dispute or need arises.

7 **2. Electronic Evidence Conference Certification**

8 The parties further intend to present evidence in electronic format to jurors for the purposes
9 of jury deliberations. The parties discussed the presentation of evidence for juror deliberations, but
10 did not reach any stipulations as to that method at this early stage.

11 **III. EXTENSIONS OR MODIFICATIONS OF THE DISCOVERY PLAN AND**
12 **SCHEDULING ORDER**

13 LR 26-3 governs modifications or extensions to this discovery plan and scheduling order.

14 **IV. PROTECTION OF PRIVILEGED/TRIAL PREPARATION MATERIAL**

15 If a party discovers it has inadvertently disclosed privileged or trial preparation material, it
16 agrees to notify the opposing party in writing within 30 days of the discovery that such document(s)
17 have been disclosed, which written notification will set forth the basis for the claim that the items
18 disclosed are privileged or trial preparation material. If the party receiving the disclosure agrees
19 that the inadvertently-produced items are privileged or trial preparation material, it will return all
20 such items to the producing party without the retention of any copies. If the receiving party disputes
21 that the items are privileged or trial preparation materials, it will within 30 days of written
22 notification of the inadvertent disclosure, present the disputed items inadvertently disclosed to the
23 court under seal for a decision with respect thereto (without the retention of copies), including with
24 such submission the producing party's written notification and any statement the receiving party
25 wishes to make in support of its position that the items are not privileged or trial preparation
26 material.

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1 If the receiving party disclosed the inadvertently-produced privileged or trial preparation materials
2 before being notified of the inadvertent disclosure, it will take reasonable steps to retrieve the
3 materials pending resolution of the matter.

4 DATED this 22nd day of July 2024

DATED this 22nd day of July 2024

5 TYSON & MENDES LLP

HICKS & BRASIER, PLLC

6
7 /s/ Griffith H. Hayes

/s/ Betsy Jefferis Aguiar

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17 **IT IS SO ORDERED:**

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22 UNITED STATES DISTRICT JUDGE or
23 UNITED STATES MAGISTRATE JUDGE

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28 DATED: 7-25-24
