

1 2. Plaintiff alleges experiencing complications following the implantation of a
 2 Bard Inferior Vena Cava (“IVC”) filter, a prescription medical device. She has asserted three
 3 strict products liability counts (manufacturing defect, information defect (failure to warn) and
 4 design defect), six negligence counts (design, manufacture, failure to recall/retrofit, failure to
 5 warn, negligent misrepresentation and negligence per se), two breach of warranty counts
 6 (express and implied), two counts sounding in fraud (fraudulent misrepresentation and
 7 fraudulent concealment), an unfair and deceptive trade practices count, and a claim for
 8 punitive damages.

9 3. Defendants deny the allegations contained in the Complaint.

10 4. After four years, the completion of general issue discovery, and the conduct of
 11 three bellwether trials, Judge Campbell ordered that cases, which have not settled or are not
 12 close to settling, be transferred or remanded to the appropriate jurisdictions around the
 13 country for case-specific discovery and trial. As a part of that process, he established a “track”
 14 system, wherein certain cases were placed on tracks either to finalize settlement paperwork,
 15 continue settlement negotiations, or be remanded or transferred.

16 5. This case was transferred to this Court on March 30, 2020 because at the time
 17 it was not close to settling. But, since that date, the Parties have engaged in further
 18 settlement discussions and have reached a settlement in principal. The Parties believe that a
 19 stay is necessary to conserve their resources and attention so that they may attempt to resolve
 20 this case and those of two other plaintiffs represented by Plaintiff’s counsel with cases
 21 pending before this Court.

22 6. Accordingly, the Parties request that this Court issue an order staying discovery
 23 and pretrial deadlines until February 16, 2021 to allow the Parties time to finalize
 24 settlement. This will prevent unnecessary expenditures of the Parties and judicial resources as
 25 well as place this case on a similar “track” as the MDL cases Judge Campbell determined
 26 should continue settlement dialogue.

27 7. A district court has broad discretion over pretrial discovery rulings. *Crawford-*
 28 *El v. Britton*, 523 U.S. 574, 598 (1998); *accord Republic of Ecuador v. Hinchee*, 741 F.3d

1 1185, 1188-89 (11th Cir. 2013); *Thermal Design, Inc. v. Am. Soc'y of Heating, Refrigerating*

2 & Air-Conditioning Eng'rs, Inc., 755 F.3d 832, 837 (7th Cir. 2014); *see also Cook*

3 *v. Kartridg Pak Co.*, 840 F.2d 602, 604 (8th Cir. 1988) (“A district court must be free to use

4 and control pretrial procedure in furtherance of the orderly administration of justice.”).

5 8. Under Federal Rules of Civil Procedure 26(c) and 26(d), a court may limit the

6 scope of discovery or control its sequence. *Britton*, 523 U.S. at 598. Although settlement

7 negotiations do not automatically excuse a party from its discovery obligations, the parties

8 can seek a stay prior to the cutoff date. *Sofo v. Pan-Am. Life Ins. Co.*, 13 F.3d 239, 242

9 (7th Cir. 1994); *see also Wichita Falls Office Assocs. v. Banc One Corp.*, 978 F.2d 915, 918

10 (5th Cir. 1993) (finding that a “trial judge’s decision to curtail discovery is granted great

11 deference,” and noting that the discovery had been pushed back a number of times because of

12 pending settlement negotiations).

13 9. Facilitating the efforts of parties to resolve their disputes weighs in favor of

14 granting a stay. In *Coker v. Dowd*, 2:13-cv-0994-JCM-NJK, 2013 U.S. Dist. LEXIS 201845,

15 at *2-3 (D. Nev. July 8, 2013), the parties requested a 60-day stay to facilitate ongoing

16 settlement negotiations and permit them to mediate global settlement. The Court granted the

17 stay, finding the parties would be prejudiced if required to move forward with discovery at

18 that time and a stay would potentially prevent an unnecessary complication in the case. *Id.* at

19 *3. Similarly, the Parties in the present case have reached a settlement in principal with

20 Plaintiff and the other two plaintiffs represented by Plaintiff’s counsel.

21 10. The Parties agree that the relief sought herein is necessary to handle the case in

22 the most economical fashion yet allow sufficient time to schedule and complete discovery if

23 necessary, consistent with the scheduling obligations of counsel. The relief sought in this

24 Motion is not being requested for delay, but so that justice may be done.

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1 **WHEREFORE**, Plaintiff and Defendants respectfully request the Court's approval of
2 this stipulation to stay discovery and all pretrial deadlines until **February 16, 2021** to allow
3 the Parties to conduct ongoing settlement negotiations.

4 **IT IS SO STIPULATED.**

5 Respectfully submitted on November 18, 2020.

6 MCSWEENEY LANGEVIN, LLC

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36 IT IS SO ORDERED.

37 Dated: November 19, 2020

38 
39 UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

2 I hereby certify that on **November 19, 2020**, I caused the foregoing document to be
3 electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification
4 of such filing to the CM/ECF participants registered to receive service in this case.

/s/ *Shermielynn Irasga*

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