

1 RICHARD C. EYMANN
 Eymann, Allison, Fennessy, Hunter & Jones, P.S.
 2 2208 West Second Avenue
 Spokane, WA 99204
 3 (509) 747-0101

4 STEPHEN L. NORDSTROM
 Nordstrom & Nees, P.S.
 5 323 S. Pines Road
 Spokane, WA 99206
 6 (509) 924-9800

7 Attorneys for Plaintiff

8 UNITED STATES DISTRICT COURT FOR THE
 9 EASTERN DISTRICT OF WASHINGTON

10 THOMAS A. WAITE,

No. CV-05-399-EFS

11 Plaintiff,

12 vs.

**MEMORANDUM OF POINTS
 AND AUTHORITIES IN
 SUPPORT OF MOTION TO
 EXPEDITE HEARING ON
 PARTIES' STIPULATED
 MOTION TO CONTINUE
 EXPERT DISCLOSURE DATES**

13 THE CHURCH OF JESUS CHRIST OF
 LATTER DAY SAINTS d/b/a
 CORPORATION OF THE PRESIDING
 14 BISHOP OF THE CHURCH OF JESUS
 CHRIST OF LATTER DAY SAINTS, a
 15 Utah corporation, d/b/a
 CORPORATION OF THE PRESIDENT
 16 OF THE CHURCH OF JESUS CHRIST
 OF LATTER DAY SAINTS, a Utah
 17 corporation; DONALD C. FOSSUM;
 18 and STEVEN D. BRODHEAD,

19 Defendants.

20 **I. RELIEF REQUESTED**

21 All parties request their Stipulated Motion to Continue Expert Disclosure Dates
 22 be set for hearing on October 30, 2006.

23 **II. DISCOVERY STATUS**

24 This case arises out of a motor vehicle accident which occurred on or about
 25 August 21, 2003, that resulted in plaintiff Thomas Waite sustaining a traumatic brain

1 injury and orthopedic injuries. The claims include negligence against the two
2 defendant drivers, Donald Fossum and Steven Brodhead, and additional claims against
3 defendant LDS Church.

4 The parties have worked diligently to provide initial disclosures, answer
5 discovery and schedule depositions. Counsel have deposed plaintiff Thomas Waite
6 and plaintiff's parents. The parties have scheduled the depositions of four (4) persons
7 identified by defendant LDS Church in Salt Lake City, Utah on November 9 and 10,
8 2006. Despite the parties' collective best efforts, it has taken, on average, two
9 months to schedule the depositions taken thus far due to counsel's trial calendar.

10 In addition to lay depositions, the parties are beginning to schedule expert
11 depositions in anticipation of the expert disclosure deadlines. Plaintiff's counsel has
12 advised that they intend to identify at least five (5) experts on liability and damages
13 and will have proposed deposition dates in January, 2007. Defendants LDS Church
14 and Fossum expect to identify at least four (4) experts on liability and damages.
15 Defendant Brodhead expects to identify at least four (4) experts on liability and
16 damages. Given the current Scheduling Order, the parties believe they will be able
17 to schedule these expert depositions prior to the current discovery cut-off of May 11,
18 2007. As such, the parties have agreed to stipulate to a two-week extension of the
19 expert disclosures deadline so that the experts' reports are completed on time and
20 contain the requisite information as required by the Court.

21 Given the complexity of this case, the critical importance of the parties' expert
22 evidence, and the full schedules of trial counsel, the parties request that the expert
23 disclosure deadlines be extended by two weeks.

III. BASIS FOR EXPEDITED HEARING

The basis for expediting the hearing is two-fold:

- 1) The parties have agreed to the Stipulated Motion to Continue, consequently, there is no reason for delay.
- 2) If the Stipulated Motion to Continue is granted, it will provide immediate assistance to the parties who continue to use their best efforts to provide their expert reports in a complete and timely manner.

For these reasons, and the reasons set forth in the Stipulated Motion to Continue, the parties respectfully request the Court expedite its ruling.

DATED this 24th day of October, 2006.

EYMANN ALLISON FENNESSY HUNTER
JONES, P.S.

BY s/ Richard C. Eymann
RICHARD C. EYMANN, WSBA #7470
Co-counsel for Plaintiff

CERTIFICATE OF SERVICE

I, RICHARD C. EYMANN, hereby certify that on the 24th day of October, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following participants:

Brian T. Rekofke
Witherspoon Kelley Davenport & Toole
1100 U.S. Bank Building
422 W. Riverside Avenue
Spokane, WA 99201

Andrew C. Smythe
Paine Hamblen Coffin Brooke & Miller
717 W. Sprague Avenue, Suite 1200
Spokane, WA 99201

s/Richard C. Eymann
RICHARD C. EYMANN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28