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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 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 Given the complexity of this motor vehicle accident case, the critical importance  
 22 of the parties' expert evidence and the full schedules of trial counsel, plaintiff and  
 23 defendants respectfully request the following changes to the current case Scheduling  
 24 Order:

25  
 26 **EYMANN ALLISON FENNESSY HUNTER JONES**

1 Plaintiff's CR 26(a)(2) Expert Disclosures: from 11/5/06 to 11/20/06

2 Defense CR 26(a)(2) Expert Disclosures: from 1/6/07 to 1/22/07

3 Plaintiff's Rebuttal Disclosures: from 2/27/07 to 3/14/07

4 The parties agree that the September 17, 2007 trial date will remain firm.

## 5 II. DISCOVERY STATUS

6 This case arises out of a motor vehicle accident which occurred on or about  
7 August 21, 2003, that resulted in plaintiff Thomas Waite sustaining a traumatic brain  
8 injury and orthopedic injuries. The claims include negligence against the two  
9 defendant drivers, Donald Fossum and Steven Brodhead, and additional claims against  
10 defendant LDS Church.

11 The parties have worked diligently to provide initial disclosures, answer  
12 discovery and schedule depositions. Counsel have deposed plaintiff Thomas Waite  
13 and plaintiff's parents. The parties have scheduled the depositions of four (4) persons  
14 identified by defendant LDS Church in Salt Lake City, Utah on November 9 and 10,  
15 2006. Despite the parties' collective best efforts, it has taken, on average, two  
16 months to schedule the depositions taken thus far due to counsel's trial calendar.

17 In addition to lay depositions, the parties are beginning to schedule expert  
18 depositions in anticipation of the expert disclosure deadlines. Plaintiff's counsel has  
19 advised that they intend to identify at least five (5) experts on liability and damages  
20 and will have proposed deposition dates in January, 2007. Defendants LDS Church  
21 and Fossum expect to identify at least four (4) experts on liability and damages.  
22 Defendant Brodhead expects to identify at least four (4) experts on liability and  
23 damages. Given the current Scheduling Order, the parties believe they will be able  
24 to schedule these expert depositions prior to the current discovery cut-off of May 11,  
25 2007. As such, the parties have agreed to stipulate to a two-week extension of the

26 **EYMANN ALLISON FENNESSY HUNTER JONES**

27 MEMORANDUM OF POINTS AND AUTHORITIES  
28 IN SUPPORT OF PARTIES' STIPULATED MOTION  
TO CONTINUE EXPERT DISCLOSURE DATES-2

(mem in sup of stipulated motion to continue.wpd)

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1 expert disclosures deadline so that the experts' reports are completed on time and  
2 contain the requisite information as required by the Court.

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

6 **III. LOCAL RULE 37.1(b) COMPLIANCE**

7 The Scheduling Order and the inherent power of the Court to manage discovery  
8 provide this Court authority to revise the Scheduling Order as discovery progresses.  
9 Here, good cause exists to revise the Scheduling Order as proposed by the parties.  
10 In particular, the parties have worked diligently and in good faith to conduct discovery  
11 to date and intend to continue to do so. The complexities of this case, however,  
12 present difficulties in complying with the current Scheduling Order as to disclosure  
13 of experts' reports only that cannot be overcome by the parties, despite their best  
14 efforts.

15 **IV. CONCLUSION**

16 Based on the good cause shown and on the plaintiff's and defendants' agreement  
17 to not oppose plaintiff's motion, plaintiff respectfully requests the Court revise the  
18 Scheduling Order as set forth above.

19 DATED this 24th day of October, 2006.

20  
21 EYMANN ALLISON FENNESSY HUNTER  
22 JONES, P.S.

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

26 **EYMANN ALLISON FENNESSY HUNTER JONES**

**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:

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s/Richard C. Eymann  
**RICHARD C. EYMANN**

**EYMANN ALLISON FENNESSY HUNTER JONES**

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