

Hon. Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ESTHER HOFFMAN; et al.,

PLAINTIFFS,

v.

TRANSWORLD SYSTEMS
INCORPORATION; et. al.,

DEFENDANTS.

Case No.: 18-cv-1132-TSZ

**STIPULATED MOTION AND
ORDER CONTINUING DEADLINES
FOR THE PARTIES TO FILE
DISPOSITIVE MOTIONS AND
EXPERT WITNESS MOTIONS**

I. STIPULATED MOTION

1. Pursuant to LCR 7(d)(1) and LCR 10(g), Plaintiffs and Defendants hereby respectfully submit this stipulated motion for entry of an order (a) continuing the deadlines for the parties to file and brief dispositive motions for summary judgment and motions related to expert witnesses, and (b) allowing the parties to conduct certain depositions after the close of discovery as described below.

2. Plaintiffs have two pending motions seeking discovery from TSI. One was noted

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1 for April 4, 2022. (Dkt. 271) and the other for April 22, 2022 (Dkt. 276) (together, the “Discovery
2 Motions”). Once the Court decides the pending Discovery Motions, and if either of the Motions
3 are granted and additional discovery is ordered, additional time may be needed thereafter to
4 complete this discovery.
5

6 3. On March 13, 2022, the parties stipulated, and on March 14, 2022, the Court
7 ordered, that in light of the Discovery Motions, “[w]ithin five (5) days of the Court’s decision on
8 any motion concerning the scope of [TSI’s] Designated Representative’s required testimony, the
9 parties shall meet and confer and attempt to agree on new filing deadline and noting dates for TSI’s
10 Motion for Summary Judgment (Dkt. 161) and responses thereto on a schedule similar to the
11 current briefing schedule and Plaintiffs’ Motion for Class Certification (Dkt. 232) and responses
12 thereto on a schedule similar to the current briefing schedule ...” Dkt. 268, ¶ 9.
13

14 4. The operative Order Setting Trial and Related Dates (Dkt. 146) set a May 5, 2022
15 deadline for dispositive motions to be filed and May 12, 2022 deadline for all motions related to
16 expert witnesses to be filed.
17

18 5. Because additional motions for summary judgment and motions related to expert
19 witnesses cannot be briefed and noted by most parties until after depositions of expert witnesses
20 are completed, and because depositions of expert witnesses cannot be taken until after the Court
21 decides the pending Discovery Motions (*see* Dkt. 268), the parties have met and conferred and
22 believe that it is in their best interest, and respectfully submit that it is in the Court’s interest as
23 well, to stay the current deadlines for filing dispositive motions (currently May 5) and motions
24 related to expert witnesses (currently May 12) until further order of the Court. This will allow the
25 Court sufficient time to decide the pending Discovery Motions before motions for summary
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1 judgment and motions related to expert witnesses are required to be briefed and noted. The parties
2 also request leave to depose the Fed. R. Civ. P. 30(b)(6) designees of two non-parties, Boston
3 Portfolio Advisers, Inc. (“BPA”) and Pennsylvania Higher Education Assistance Agency
4 (“PHEAA”). BPA was slow in responding to Plaintiffs’ Subpoena for records and the parties agree
5 that good cause exists to depose both BPA and PHEAA.
6

7 6. “The district court may modify the pretrial schedule ‘if it cannot reasonably be met
8 despite the diligence of the party seeking the extension.’” *Johnson v. Mammoth Recreations, Inc.*,
9 975 F.2d 604, 609 (9th Cir. 1992) (quoting Fed. R. Civ. P. 16 advisory committee’s notes). A
10 schedule may be modified only for good cause. Fed. R. Civ. P. 16(b)(4); LCR 16(b)(5). When
11 determining whether a party has demonstrated good cause, the court “primarily considers the
12 diligence of the part[ies] seeking the amendment.” *Johnson*, 975 F.2d at 609. Here, the parties
13 have been diligent in working towards completing discovery before the expiration of the
14 Scheduling Order’s deadline of April 18, 2022. Even though this case is a putative class action
15 with six named Plaintiffs, eight defendants, and numerous complicated and sensitive discovery
16 issues, the parties have successfully cooperated and significantly completed fact and class
17 discovery, and have served expert disclosures under Fed. R. Civ. P. 26. The parties are not
18 requesting additional time to complete discovery at this time except for additional time to take the
19 depositions of (1) the parties’ designated expert witnesses; (2) the Fed. R. Civ. P. 30(b)(6)
20 designated representative of subpoenaed non-party Boston Portfolio Advisers, Inc.; and (3) the
21 Fed. R. Civ. P. 30(b)(6) designated representative of non-party Pennsylvania Higher Education
22 Assistance Agency.
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26 7. The parties are requesting a continuance because of the uncertainty created by the
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1 pending Discovery Motions. Specifically, Plaintiffs believe that it is necessary for the Discovery
2 Motions to be resolved and additional discovery directed by the Court's decisions on the Discovery
3 Motions, if any, be completed in order to finish briefing for most dispositive motions, and motions
4 related to expert witnesses. The parties each believe that it is appropriate and that there is good
5 cause to continue these deadlines until after resolution of the Discovery Motions.
6

7 8. The parties therefore stipulate and agree, and respectfully request, that the current
8 deadlines for filing dispositive motions and motions related to expert witnesses be stayed until
9 further order of the Court. Within five (5) days of the Court's decision on the Discovery Motions,
10 the parties will meet and confer and attempt to agree on new filing and noting deadlines for these
11 motions and, if necessary, a comprehensive new schedule that accounts for the continued deadlines
12 to file these motions, as well as the continued noting dates for TSI's Motion for Summary
13 Judgment (Dkt. 161) and Plaintiffs' Motion for Class Certification (Dkt. 232), which were
14 previously stayed until further order by the Court's March 14, 2022 Order (Dkt. 268). If the parties
15 cannot agree, the parties shall submit their proposals for a revised schedule to the Court within
16 eight (8) days of the Court's decision on the Discovery Motions.
17

18 9. The next deadline in the current Scheduling Order which the parties are requesting
19 to continue is the May 5, 2022 deadline for filing of dispositive motions. The Scheduling Order
20 currently sets a trial date of October 3, 2022. Accordingly, the instant joint motion complies with
21 LCR 7(j) which instructs that "[a] motion for relief from a deadline should, whenever possible, be
22 filed sufficiently in advance of the deadline to allow the court to rule on the motion prior to the
23 deadline."
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26 10. The parties agree that all preexisting deadlines that have passed are not to be
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1 continued or resurrected at this time, except as contemplated herein.

2 11. The parties agree that this stipulation does not affect the filing or noting date of the
3 pending dispositive motion filed by defendants Matthew Cheung or Patenaude and Felix, APC,
4 (Dkt. 284), or address any party's position on such motion.
5

6 STIPULATED this 2nd day of May, 2022.

7
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1 **II. ORDER**

2 The Court having considered the foregoing stipulated motion, and finding that good cause
3 has been shown for the requested relief, now therefore, it is hereby

4 ORDERED, as follows:

5
6 1. The current deadlines for the parties to file dispositive motions for summary
7 judgment and motions related to expert witnesses as set forth in the Court's Order Setting Trial
8 and Related Dates (Dkt. 146) are hereby stayed until further order of the Court.

9
10 2. Within five (5) days of the Court's decision on Plaintiffs' motions seeking
11 discovery from TSI that are pending before the Court (Dkt. 271, 276) (together, the "Discovery
12 Motions"), the parties shall meet and confer and attempt to agree on new filing and noting
13 deadlines for dispositive motions for summary judgment and motions related to expert witnesses
14 and, if necessary, a comprehensive new schedule that accounts for the continued deadlines to file
15 these motions, as well as the continued noting dates for TSI's Motion for Summary Judgment (Dkt.
16 161) and Plaintiffs' Motion for Class Certification (Dkt. 232), which were stayed until further
17 order by the Court's March 14, 2022 Order (Dkt. 268). If the parties cannot agree, the parties shall
18 submit their proposals for a revised schedule to the Court within eight (8) days of the Court's
19 decision on the Discovery Motions.
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22 3. The parties are granted leave to take the depositions of expert witnesses designated
23 under Fed. R. Civ. P. 26(a)(2), within 30 days of the Court's decision on the pending Discovery
24 Motions.

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