

The Honorable Jamal Whitehead

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOSHUA A. DIEMERT, an individual,

Plaintiff,

v.

THE CITY OF SEATTLE, a municipal
corporation,

Defendant.

No. 2:22-CV-01640-JNW

**STIPULATED MOTION AND ORDER
TO CONTINUE CERTAIN PRE-TRIAL
DEADLINES AND TRIAL DATE**

Submitted: May 8, 2024

STIPULATED MOTION

Plaintiff Joshua A. Diemert (“Plaintiff”) and Defendant The City of Seattle (“Defendant”) jointly move the Court to amend the Order Setting Motion to Extend Answer Deadline and Continue Trial (Dkt. No. 30) and extend the trial date and related deadlines in this case.

In support of this Stipulated Motion, the Parties state the following:

1. Plaintiff filed the Complaint in this matter on November 16, 2022. Dkt. 1. Plaintiff filed an Amended Complaint and served Defendant with same on January 19, 2023. Dkt. 10-11.

2. On March 10, 2023, Defendant moved for dismissal of Plaintiff’s claims pursuant to Federal Rule of Civil Procedure 12(b)(6). Dkt. 16. The Court issued an Order granting in part and denying in part Defendant’s Motion on August 28, 2023. Dkt. 28.

3. Since the Court issued its Order on Defendant’s Motion to Dismiss, the Parties have been actively engaged in discovery. The Parties have previously conferred and agreed on limited deadline extensions. See Dkt. No. 44, Order to Extend Deadlines for Rebuttal Expert Testimony

1 and Discovery, 03-22-2024. This matter is currently set for trial on September 9, 2024.

2 4. The Parties have conferred and agree that the remaining agreed additional discovery
3 cannot be completed under the existing case schedule. Counsel for Defendant contacted Courtroom
4 Deputy Grant Cogswell on April 25, 2024 to request the Court's availability for trial dates in
5 November or December, 2024. The Court provided options of November 4, 2024, November 11,
6 2024, or January 13, 2025. Given witness availability issues, Plaintiff requested the January 13,
7 2025 date, and Defendant has agreed.

8 5. The Parties do not wish to broadly reopen discovery and therefore stipulate that any
9 additional discovery will be limited to the following:

- 10 • Testimony and related document collection related to defense experts Tim
11 Wise and Lorraine Barrick, and Plaintiff's experts, Ashleigh Lansing, Erec
12 Smith, and Devon Westhill.
- 13 • Testimony and related document collection pertaining to Plaintiff's medical
14 treatment and conditions.
- 15 • The second day of Plaintiff's deposition, for which Plaintiff agrees to make
16 himself available for a full day, and for which Defendant agrees to avoid any
17 duplicative questioning.

18 6. Regarding any currently pending discovery on which the Parties have unresolved
19 disputes, the Parties have agreed to expedite resolution as follows:

- 20 • Each side will make its final production and confirm that it has no additional
21 responsive documents to any pending request to which it has not objected by
22 May 10, 2024.
- 23 • To the extent any discovery requests remain disputed, counsel for the
24 requesting party will provide to the other party an itemized list by May 17,
25 2024 of the outstanding discovery issues that remain at that time. The
26 responding party will have until May 31, 2024, to either produce the final
27 disputed items, or to seek a protective order from the Court. Counsel for the
requesting party will have until May 31, 2024, to file a motion to compel
production. Any further discovery on these disputed issues will be in
accordance with the Court's order.

7. In accordance with the Parties' agreement, the Parties hereby request limited
extensions of upcoming case deadlines as follows:

- May 31, 2024 – deadline to file discovery motions (within the limitations described above).
- June 12, 2024 – deadline to complete the limited remaining discovery identified above.
- July 15, 2024 – deadline to file dispositive motions and motions challenging expert testimony.

8. In addition, the Parties jointly request an extension of the trial date to January 13, 2025. The Parties further jointly request that the Court issue a new Case Scheduling Order setting all pretrial deadlines not specifically agreed upon by the Parties as described herein in accordance with the new trial date.

STIPULATED this 8th day of May, 2024.

PACIFIC LEGAL FOUNDATION
Attorneys for Plaintiff Joshua A. Diemert
**Electronic signed added per email*
*authority provided 05-08-2024**

By /s/ Laura D'Agostino

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1 **ORDER**

2 The Parties jointly moved the Court for an extension of the trial date and case deadlines.
3 In accordance with the Parties' agreement, the Court hereby orders the limited extension of
4 upcoming case deadlines as follows:

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Event	Revised Date
All motions related to discovery must be filed (within the limitations as stipulated and agreed to between the Parties)	May 31, 2024
Deadline to complete remaining discovery (within the limitations as stipulated and agreed to between the Parties)	June 12, 2024
All dispositive motions and motions challenging expert witness testimony must be filed by	July 15, 2024

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13 In addition, the Court extends the trial date to **January 13, 2025**. The Clerk of Court is
14 directed to issue a new Case Scheduling Order setting all pretrial deadlines not specifically agreed
15 upon by the Parties, as described in the Parties' Stipulation herein, in accordance with the new trial
16 date.

17 IT IS SO ORDERED.

18 Dated this 10th day of May, 2024.

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22 Jamal N. Whitehead
23 United States District Judge

1 **Presented by:**

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3 *Attorneys for Defendant The City of Seattle*

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14 **Stipulated / Approved as to Form:**

15 PACIFIC LEGAL FOUNDATION
16 *Attorneys for Plaintiff Joshua A. Diemert*
17 ***Electronic signed added per email**
18 **authority provided 05-08-2024***

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