

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LENOR TILLMAN,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 2:23-cv-01070-MJP

SECOND STIPULATED MOTION AND
~~PROPOSED~~ ORDER FOR EXTENSION
OF PRETRIAL DEADLINES

Noted for Consideration:
May 9, 2024

JOINT STIPULATION

The parties hereby jointly STIPULATE AND AGREE to extend the following deadlines, which were set forth in the Court's December 1, 2023, Order Setting Trial Date & Related Dates (Dkt. 11), as set forth below.

<u>Deadline</u>	<u>Current Deadline</u>	<u>New Deadline</u>
TRIAL DATE	December 16, 2024	On or after February 10, 2025
Reports from expert witnesses under FRCP 26(a)(2) due	May 20, 2024	July 15, 2024
All motions related to discovery must be filed by and noted on the motion calendar on the third Friday thereafter (CR 7(d))	June 20, 2024	August 15, 2024

1	Discovery completed by	July 19, 2024	September 13, 2024
2	All dispositive motions must be filed by and noted on the motion calendar no later than the fourth Friday thereafter (see CR 7(d)(3)).	August 19, 2024	October 14, 2024
3	All motions in limine must be filed by and noted on the motion calendar no earlier than the third Friday thereafter and no later than the Friday before the pretrial conference.	November 12, 2024	January 7, 2025
4	Agreed pretrial order due	December 3, 2024	January 28, 2025
5	Trial briefs and Proposed Findings of Fact and Conclusions of Law	December 3, 2024	January 28, 2025
6	Pretrial conference	December 5, 2024 At 01:30 PM	On or after January 30, 2025

12 A court may modify a schedule for good cause. Fed. R. Civ. P. 16(b)(4). Continuing
13 pretrial and trial dates is within the discretion of the trial judge. *King v. State of California*, 784
14 F.2d 910, 912 (9th Cir. 1986). The parties request that the Court extend the currently scheduled
15 deadlines in the case by eight weeks, because the parties cannot complete expert and fact
16 discovery within the schedule set by the Court.

17 Plaintiff asserts that she sustained several injuries as a result of the incident alleged in the
18 Complaint, including exacerbation of post-concussive syndrome and injuries to her right
19 shoulder, right wrist and thumb, right ankle, left hip, collarbone, back, and neck. Plaintiff has
20 sought treatment for these injuries from multiple providers and specialists, requiring the parties
21 to collect and review voluminous medical records from multiple different medical groups. The
22 parties stipulated to a subpoena for medical records in December 2023. Defendant has been
23 collecting records and providing them to Plaintiff since that time. Throughout discovery,
24 Defendant has learned of additional providers that have been added to the subpoena. Plaintiff

1 gave permission to add those additional providers to the stipulation in late February 2024. The
2 most recent production of records was in April 2024, and the parties are continuing to seek
3 additional medical records from at least one provider that has not yet responded to the subpoena.
4 The parties have also collected and are reviewing medical records relating to Plaintiff's medical
5 condition from before the incident alleged in the Complaint, which also included multiple
6 different providers for multiple different conditions. As more records are obtained, the parties'
7 experts need additional time to review the material and potentially revise their opinions.
8 Defendant cannot schedule Plaintiff's deposition until it has collected all of her medical records.

9 The Court recently denied without prejudice a request that sought more time and
10 suggested that the parties could refile if they provided additional information. Dkt. 15. The
11 parties have retained experts who are currently reviewing medical records and, while the parties
12 have made efforts to narrow the scope of the records being reviewed, the records remain
13 voluminous. Moreover, Defendant has retained one expert who unexpectedly "departed" on a
14 previously undisclosed leave and informed Defendant that he will not be able to work on this
15 matter in the previously agreed upon schedule. Defendant is currently working to retain another
16 expert, but any new expert will not be able to complete their review within the current schedule.
17 In general, for at least Defendant, it has been difficult to locate experts with availability. For
18 those that have been retained, they need additional time to review the records. The parties also
19 anticipate that deposition testimony will affect the experts' opinions.

20 Good cause also exists because the parties are currently working to schedule and take the
21 depositions of Plaintiff, multiple medical providers, and In Sook Ma, the former USPS driver
22 involved in the incident alleged in the Complaint. Ms. Ma is no longer employed with the U.S.
23 Postal Service, and Defendant has been trying for a significant amount of time to locate and
24 contact Ms. Ma, but it has been unsuccessful. Defendant has shared her contact information with

1 Plaintiff so that she can try and contact Ms. Ma separately. It is highly likely that Ms. Ma's
2 testimony will be important for the Plaintiff and the parties' experts. The parties will thereby
3 need additional time to conduct discovery, including locating witnesses and scheduling
4 depositions.

5 The parties submit that good cause exists to extend the remaining deadlines in the case by
6 eight weeks to afford the parties adequate time to prepare their respective cases. The remaining
7 dates would need to be similarly extended so that the parties have adequate time to prepare for
8 and brief dispositive motions and motions *in limine*, prepare pre-trial materials for the Court, and
9 provide time for the Court to rule on any pre-trial matters.

10 For the reasons set forth above, the parties believe that there is good cause to extend the
11 above-listed dates and respectfully request that the Court grant their motion. The parties have
12 conferred and agreed to an eight-week extension but would appreciate any amount of time the
13 Court sees fit to extend the matter.

14 Should the proposed trial date not work for the Court, the parties have set forth their
15 current scheduling conflicts below:

16 Plaintiff: Plaintiff's counsel is set to commence trial on the following dates: January 6–17,
17 2025, and April 14–22, 2025.

18 Defendant: Defense counsel is set to commence trial in this District on the following dates:
19 December 10–18, 2024, January 6–10, 2025, February 24 – March 3, 2025, March 10–14, 2025,
20 and March 17–21, 2025.

21 //

22 //

23 //

1 **SO STIPULATED.**

2 DATED this 9th day of May, 2024.

3 Respectfully submitted,

4 TESSA M. GORMAN
5 United States Attorney

RUSSELL & HILL, PLLC

6 s/ Lyndsie R. Schmalz
7 LYNDSIE R. SCHMALZ, CA No. 285004

s/ Dean Swanson
DEAN F. SWANSON, WSBA No. 40638
3811-A Broadway
Everett, WA 98201
Phone: (425) 212-9165
Fax: (425) 212-9168
Email: dean@russellandhill.com

8 s/ Nickolas Bohl
9 NICKOLAS BOHL, WSBA No. 48978
10 Assistant United States Attorneys
11 United States Attorney's Office
12 Western District of Washington
13 700 Stewart Street, Suite 5220
14 Seattle, WA 98101-1271
15 Phone: 206-553-7970
16 Fax: 206-553-4073
17 Email: lyndsie.r.schmalz@usdoj.gov
18 Email: nickolas.bohl@usdoj.gov

Attorney for Plaintiff

19 *Attorneys for United States of America*

20 I certify that this memorandum contains 989
21 words, in compliance with the Local Civil
22 Rules.

1 **ORDER**

2 The Court finds good cause to extend the trial date and case deadlines. It is hereby
3 ORDERED that the parties' motion is GRANTED. The new trial date and pretrial deadlines are:

<u>Deadlines</u>	
TRIAL DATE	February 10, 2025
Reports from expert witnesses under FRCP 26(a)(2) due	July 15, 2024
All motions related to discovery must be filed by and noted on the motion calendar on the third Friday thereafter (CR 7(d))	August 15, 2024
Discovery completed by	September 13, 2024
All dispositive motions must be filed by and noted on the motion calendar no later than the fourth Friday thereafter (see CR 7(d)(3)).	October 14, 2024
All motions in limine must be filed by and noted on the motion calendar no earlier than the third Friday thereafter and no later than the Friday before the pretrial conference.	January 7, 2025
Agreed pretrial order due	January 28, 2025
Trial briefs and Proposed Findings of Fact and Conclusions of Law	January 28, 2025
Pretrial conference	January 30, 2025 at 1:30 PM

18
19 All other requirements set forth in the original Case Schedule Order shall remain in effect.

20 DATED this 10th day of May, 2024.

21
22 

23 MARSHA J. PECHMAN
24 United States Senior District Judge