

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

The Honorable Ronald B. Leighton

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

CLEAR CREEK RETIREMENT PLAN II
LLC, a Washington limited liability company,

Plaintiff,

vs.

FOREMOST INSURANCE COMPANY
GRAND RAPIDS MICHIGAN, a Michigan
corporation,

Defendant.

No. 3:17-cv-05564-RBL

**STIPULATED MOTION AND ORDER
TO AMEND CASE SCHEDULE**

Defendant Foremost Insurance Company Grand Rapids, Michigan (“Foremost”) and Plaintiff Clear Creek Retirement Plan II, LLC (collectively the “Parties”) submit this Stipulated Motion to Amend Case Schedule.

I. INTRODUCTION

Foremost’s Motion for Summary Judgment is currently pending before the Court. Under the current Case Schedule, disclosure of expert testimony is due on June 20, 2018. Depending on the Court’s ruling on summary judgment, expert testimony may not be required. Therefore, the Parties are stipulating to amend the case schedule and extend the discovery deadlines.

1 If the expert disclosure deadline is extended sixty (60) days, the extension would
2 compromise other related discovery deadlines. As a result, the Parties stipulate to the 60-day
3 extension of other related discovery deadlines.

4 It is therefore respectfully requested that the Court amend the Case Schedule for the
5 reasons set forth herein.

6 II. STATEMENT OF FACTS

7 Plaintiff commenced this action July 3, 2017, in Pierce County Superior Court. Docket
8 at 1-2. Defendant Foremost removed this action to United States District Court on July 21,
9 2017. Dkt. at 1.

10 Since then, Foremost filed its Motion for Partial Summary Judgment seeking dismissal
11 of Plaintiff's IFCA claim. Dkt. at 11. Defendant Foremost's Motion for Partial Summary
12 Judgment is currently pending before the Court.

13 In order to potentially avoid incurring the cost of expert witnesses, the Parties stipulate
14 to the extension of FRCP 26(a)(2) deadline by 60 days, along with the other related discovery
15 deadlines. Extension of the expert deadline would conflict the other discovery deadlines,
16 specifically the deadlines for discovery related motions and completion of discovery. As a
17 result, the Parties stipulate to the extensions of the following deadlines by 60 days:

- 18 • Disclosure of expert testimony under FRCP 26(a)(2)
- 19 • All motions related to discovery
- 20 • Discovery completion

21 For the reasons set forth herein, the Parties respectfully request that the Court amend the
22 current Case Schedule.

1 **III. LEGAL AUTHORITY**

2 The decision to modify a scheduling order is within the broad discretion of the district
3 court. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607 (9th Cir. 1992). The Federal
4 Rules of Civil Procedure set forth a “good cause” standard for modifying a case schedule, and
5 provide as follows:

6 (4) *Modifying a Schedule.* A schedule may be modified only for good cause and
7 with the judge's consent.

8 Fed. R. Civ. P. 16(b)(4).

9 A Court’s evaluation of “good cause” considers the diligence of the party seeking the
10 amendment and the degree of prejudice to the non-moving party. *Johnson v. Mammoth
11 Recreations* 975 F.2d 604 (9th Cir. 1992).

12 In this case, there is no prejudice to the non-moving party because the Parties have
13 stipulated to amending the Case Schedule. There is also good cause to amend the Case
14 Schedule because the pending Motion for Summary Judgment could eliminate the need for
15 expert testimony in this matter. Accordingly, extending the requested deadlines could prevent
16 the unnecessary incurred costs of hiring experts.

17 As a result, there is good cause to amend the Case Schedule. The proposed Amended
18 Case Schedule is as follows:

Case Events	Amended Due Date
Disclosure of expert testimony under FRCP 26(a)(2)	8/20/2018
All motions related to discovery must be FILED	9/28/2018
Discovery COMPLETED	10/19/2018

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

IV. CONCLUSION

Based on the foregoing, it is requested that the Court amend the Case Schedule as presented above, pursuant to the stipulation of the Parties.

DATED this 30th day of May, 2018.

DATED this 30th day of May, 2018.

LEATHER & ASSOCIATES, PLLC

ROGERS, KEE & CARD, P.S.

s/ Thomas Lether
s/ Eric J. Neal
Thomas Lether, WSBA #18089
Eric J. Neal, WSBA #31863
1848 Westlake Ave N., Suite 100
Seattle, WA 98109
P: 206-467-5444/F: 206-467-5544
tlether@letherlaw.com
eneal@letherlaw.com
Counsel for Defendant

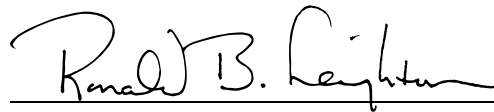
s/ Thomas J. Westbrook
Thomas J. Westbrook, WSBA #4986
Rogers, Kee & Card, P.S.
324 West Bay Drive NW
Olympia, WA 98502
P: 360-352-8311
F: 360-352-8501
tjw@buddbaylaw.com
Counsel for Plaintiff

1 **V. ORDER**

2 Based on the foregoing Stipulation, it is hereby ORDERED that the Case Schedule be
3 amended as follows:

4 Case Events	Amended Due Date
5 Disclosure of expert testimony under FRCP 26(a)(2)	8/20/2018
6 All motions related to discovery must be FILED	9/28/2018
7 Discovery COMPLETED	10/19/2018

8 DONE IN OPEN COURT this 31st day of May, 2018.

9 

10 Ronald B. Leighton
11 Ronald B. Leighton
United States District Judge

12 Presented by:

13 LETHER & ASSOCIATES, PLLC

14 s/ Thomas Lether

15 s/ Eric J. Neal

16 Thomas Lether, WSBA #18089
Eric J. Neal, WSBA #31863
1848 Westlake Ave N., Suite 100
Seattle, WA 98109
P: 206-467-5444/F: 206-467-5544
tlether@letherlaw.com
eneal@letherlaw.com
17 *Counsel for Defendant*

18 ROGERS, KEE & CARD, P.S.

19 s/ Thomas J. Westbrook

20 Thomas J. Westbrook, WSBA #4986
Rogers, Kee & Card, P.S.
324 West Bay Drive NW
Olympia, WA 98502
22 P: 360-352-8311
F: 360-352-8501
23 tjw@buddbaylaw.com
Counsel for Plaintiff