

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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DICK ANTHONY HELLER, <i>et al.</i> ,))	
))	
Plaintiffs,))	
))	Civil Action No. 08-01289 (JEB)
v.))	
))	
DISTRICT OF COLUMBIA, <i>et al.</i> ,))	
))	
Defendants.))	
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**DEFENDANT DISTRICT OF COLUMBIA’S
CONSENT MOTION FOR AN EXTENSION OF TIME
AND TO MODIFY THE SCHEDULING ORDER**

Pursuant to Fed. R. Civ. P. 6(b)(1) and 7(b), Defendant the District of Columbia (the “District”) hereby moves this Honorable Court to modify its Scheduling Order, dated September 19, 2012, by extending each of the remaining discovery deadlines by approximately 30 days, as follows:

1. The parties’ Rule 26(a)(2) expert disclosures shall be exchanged no later than **February 25, 2013**. Rebuttal expert disclosures, if any, shall be exchanged within 30 days after the other party’s disclosure;
2. Depositions of expert witnesses shall commence no earlier than **April 8, 2013**; and
3. All discovery, including expert discovery, shall be completed by **May 10, 2013**.

The District’s Memorandum of Points and Authorities in support of this request is attached hereto and incorporated by reference herein. A proposed Order also is attached hereto.

Pursuant to LCvR 7(m), the undersigned counsel discussed the instant motion by telephone on January 14, 2013, with opposing counsel, who consent to the relief requested herein.

WHEREFORE, the District respectfully requests that this Honorable Court:

- A. Grant the District's Consent Motion for an Extension of Time and to Modify the Scheduling Order, and
- B. Grant the District such other and further relief as the nature of its cause may require.

Dated: January 16, 2013

IRVIN B. NATHAN
Attorney General for the District of Columbia

ELLEN A. EFROS
Deputy Attorney General
Public Interest Division

/s/ Melissa Baker

MELISSA BAKER, D.C. Bar No. 499368
Acting Chief, Equity Section
441 Fourth Street, NW
Sixth Floor South
Washington, DC 20001
Telephone: (202) 442-9887
Facsimile: (202) 730-1499
Email: melissa.baker@dc.gov

/s/ Andrew J. Saindon

ANDREW J. SAINDON, D.C. Bar No. 456987
Assistant Attorney General
Equity Section
441 Fourth Street, N.W., 6th Floor South
Washington, D.C. 20001
Telephone: (202) 724-6643
Facsimile: (202) 730-1470
andy.saindon@dc.gov

/s/ Chad A. Naso

CHAD A. NASO [1001694]
Assistant Attorney General
Office of the Attorney General, DC
441 Fourth Street, NW
Sixth Floor South
Washington, DC 20001
(202) 724-7854 (o)
(202) 741-8951 (f)
chad.naso@dc.gov

Counsel for Defendants

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**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
DEFENDANT DISTRICT OF COLUMBIA’S CONSENT MOTION
FOR AN EXTENSION OF TIME AND TO MODIFY THE SCHEDULING ORDER**

Defendant the District of Columbia (the “District”), by and through undersigned counsel, respectfully submits this Memorandum of Points and Authorities in Support of its Motion for an Extension of Time and to Modify the Scheduling Order, pursuant to Fed. R. Civ. P. 6(b)(1) and 7(b). A proposed Order is attached hereto.

In support of the instant motion, and for its good cause shown, the District states as follows:

1. On September 19, 2012, the Court issued a Scheduling Order (Dkt. No. 46), providing, *inter alia*, that the parties’ Rule 26(a)(2) expert disclosures shall be exchanged no later than Thursday, January 24, 2013. Scheduling Order ¶ 3.

2. The Scheduling Order further provides that: (i) depositions of expert witnesses shall commence no earlier than February 25, 2013; and that (iii) all discovery, including expert discovery, shall be completed by March 25, 2013. *Id.* ¶¶ 3-4.

3. Although the District has diligently worked to comply with the existing Scheduling Order, the District submits that it requires an additional 30 days, to and including February 25, 2013, to complete and exchange its Rule 26(a)(2) expert disclosures.

4. As this deadline necessarily impacts the remaining deadlines in the Scheduling Order, the District requests that the Court modify the Scheduling Order, as follows:

- a. The parties' Rule 26(a)(2) expert disclosures shall be exchanged no later than **February 25, 2013**. Rebuttal expert disclosures, if any, shall be exchanged within 30 days after the other party's disclosure;
- b. Depositions of expert witnesses shall commence no earlier than **April 8, 2013**;¹ and
- c. All discovery, including expert discovery, shall be completed by **May 10, 2013**.

5. The District also notes that, under the Scheduling Order, the parties are ordered to appear for a status conference on April 2, 2013. Scheduling Order ¶ 5. The District does not take a position, and will leave it to the Court's discretion, as to whether this status conference should be vacated if the instant motion is granted.

6. The extension of time requested in the District's motion is not sought for any improper purpose, but to insure that there is an efficient and workable schedule in place in order to develop the record with all material information regarding Plaintiffs' claims.

7. The District submits that the above represents good cause for the requested enlargement of time under Fed. R. Civ. P. 6(b)(1).

¹ This extends the commencement of expert witness depositions by 42 days. As rebuttal expert disclosures are due within 30 days after the other party's disclosure – which is consistent with the current Scheduling Order -- such disclosures may be exchanged as late as March 27, 2013. Accordingly, in the interest of an orderly and efficient deposition schedule, this proposal builds in a period of seven business days between the exchange of rebuttal expert disclosures and the commencement of expert depositions.

8. There is no prejudice to the Plaintiffs in this brief extension of the discovery schedule. Indeed, counsel for the Plaintiffs have graciously consented to providing the District with the relief it seeks.

9. Based on the above, the District respectfully requests that this Honorable Court enter an order pursuant to Fed. R. Civ. P. 6(b)(1), to amend the schedule such that each of the discovery deadlines are extended by approximately 30 days, as detailed herein.

DATE: January 16, 2013

IRVIN B. NATHAN
Attorney General for the District of Columbia

ELLEN A. EFROS
Deputy Attorney General
Public Interest Division

/s/ Melissa Baker
MELISSA BAKER, D.C. Bar No. 499368
Acting Chief, Equity Section
441 Fourth Street, NW
Sixth Floor South
Washington, DC 20001
Telephone: (202) 442-9887
Facsimile: (202) 730-1499
Email: melissa.baker@dc.gov

/s/ Andrew J. Saindon
ANDREW J. SAINDON, D.C. Bar No. 456987
Assistant Attorney General
Equity Section
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CHAD A. NASO [1001694]
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Office of the Attorney General, DC
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Counsel for Defendants