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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

UNITED STATES OF AMERICA, *ex rel.* DENIKA TERRY, ROY HUSKEY III, and TAMERA LIVINGSTON, and each of them for themselves individually, and for all other persons similarly situated and on behalf of the UNITED STATES OF AMERICA

Plaintiffs/Relators,

vs.

WASATCH ADVANTAGE GROUP, LLC, WASATCH PROPERTY MANAGEMENT, INC., WASATCH POOL HOLDINGS, LLC, CHESAPEAKE COMMONS HOLDINGS, LLC, LOGAN PARK APARTMENTS, LLC, LOGAN PARK APARTMENTS, LP, and DOES 1-30,

Defendants.

Case No.: 2:15-CV-00799-KJM-DB

CLASS ACTION

STIPULATION AND ORDER REGARDING AMENDMENTS TO THE SCHEDULING ORDER

Before: Hon. Kimberly Mueller

Trial Date: None Set

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO
799102.3

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Plaintiffs and Relators Denika Terry, Roy Huskey III, and Tamera Livingston and Defendants Wasatch Advantage Group, LLC, Wasatch Property Management, Inc., Wasatch Pool Holdings, LLC, Chesapeake Commons Holdings, LLC, Logan Park Apartments, LLC, and Logan Park Apartments, LP (together, "the Parties"), by and through their undersigned counsel, hereby stipulate as follows:

WHEREAS, under Federal Rule of Civil Procedure 16(b)(4), the Court has broad discretion to modify a pretrial scheduling order on a showing of "good cause," focusing on the diligence of the parties and the reasons for the requested modification, *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992); *C.F. ex rel. Farnan v. Capistrano Unified Sch. Dist.*, 654 F.3d 975, 984 (9th Cir. 2011);

WHEREAS, fact discovery in this case is currently set to close on April 7, 2021 pursuant to a stipulation approved by Court on August 12, 2020 (ECF No. 126);

WHEREAS, the ongoing COVID-19 pandemic and shelter in place orders have resulted in unavoidable and lengthy delays at all stages of the discovery process, despite counsel's best efforts;

WHEREAS, the dates set in the prior stipulated scheduling order were premised on Defendants' expectation that a major document production of emails from corporate custodians over the 15 year period relevant to this case, which are responsive to Plaintiffs' Requests for Production 44 to 50, would be completed in or around October 2020, but despite Defendants' best efforts most of the document production remains outstanding;

WHEREAS, the Parties are currently working together on a significant production of data from Defendants' centralized property management database, which is responsive to Plaintiffs' Requests for Production 35 to 40;

WHEREAS the extraction of data from Defendants' centralized property management database is now possible only after months of negotiations and the retention of a joint expert and requires a multi-step process with the joint expert;

WHEREAS, the Parties expect that both the production of emails from corporate custodians and data production will be completed within the coming six to eight weeks, and that the Parties will need additional time thereafter to review and analyze the production, propound additional follow-up discovery, and prepare for depositions;

WHEREAS, due to the delays in document and data production, it is not possible for the Parties to complete this work in the two months remaining before the current close of fact discovery;

WHEREAS, good cause to amend the scheduling order exists based on the Parties' diligence and the importance of completing fact discovery so that this case may be resolved on its merits;

WHEREAS, the Parties agree that the following modifications to the Court's scheduling order would be appropriate:

- All documents responsive to Plaintiffs' Requests for Production 44 to 50 and agreed upon by the Parties, and all data responsive to Plaintiffs' Requests for Production 35 to 40 and agreed upon by the Parties, shall be produced no later than **April 7, 2021**, without prejudice to any motions to compel that Plaintiffs may file if they learn the production was materially incomplete;
- All depositions of fact witnesses shall be completed no later than **July 2, 2021**;
- Fact discovery shall be completed by **July 2, 2021**;
- Expert witness disclosures shall be made no later than **July 30, 2021**;
- Rebuttal expert witness disclosures shall be made no later **August 27, 2021**;
- Expert witnesses shall be available for deposition in **September 2021**. All expert discovery shall be completed no later than **October 1, 2021**;
- All dispositive motions, except motions for continuances, temporary restraining orders or other emergency applications, shall be ***heard*** no later than **January 21, 2022**;

THEREFORE, the Parties jointly stipulate and request that the Court so order.

Dated: February 19, 2021

Respectfully submitted,

GOLDSTEIN, BORGEN, DARDARIAN & HO

/s/ Anne P. Bellows (as authorized on 2/19/21)
Anne P. Bellows

Attorneys for Plaintiff and Relators

Dated: February 19, 2021

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

/s/ Joseph A. Salazar, Jr.
Joseph A. Salazar, Jr.

Attorneys for Defendants

IT IS SO ORDERED.

DATED: March 1, 2021.

CHIEF UNITED STATES DISTRICT JUDGE

FEDERAL COURT PROOF OF SERVICE
USA-Terry v Wasatch Property Mgmt
2:15-cv-00799 KJM DAD

STATE OF CALIFORNIA, COUNTY OF SACRAMENTO

At the time of service, I was over 18 years of age and not a party to the action. My business address is 2020 West El Camino Avenue, Suite 700, Sacramento, CA 95833. I am employed in the office of a member of the bar of this Court at whose direction the service was made.

On February 19, 2021, I served the following document(s):

- STIPULATION AND [PROPOSED] ORDER REGARDING AMENDMENTS TO THE SCHEDULING ORDER

I served the documents on the following persons at the following addresses (including fax numbers and e-mail addresses, if applicable):

SEE ATTACHED SERVICE LIST

The documents were served by the following means:

☒ (BY COURT'S CM/ECF SYSTEM) Pursuant to Local Rule, I electronically filed the documents with the Clerk of the Court using the CM/ECF system, which sent notification of that filing to the persons listed above.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Executed on February 19, 2021, at Sacramento, California.

/s/ Alicia Crespo
Alicia Crespo

SERVICE LIST
USA-Terry v Wasatch Property Mgmt
2:15-cv-00799 KJM DAD

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