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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,

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

CLASS ACTION

STIPULATION AND ORDER TO AMEND THE SCHEDULING ORDER AND SET BRIEFING DEADLINES

Before: Hon. Chief Judge Kimberly J. Mueller

Trial Date: None Set

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO
850110.7

CHESAPEAKE APARTMENT HOLDINGS, LLC, LOGAN PARK APARTMENTS, LLC, LOGAN PARK APARTMENTS, LP, ASPEN PARK HOLDINGS, LLC, BELLWOOD JERRON HOLDINGS, LLC, BELLWOOD JERRON APARTMENTS, LP, BENT TREE APARTMENTS, LLC, CALIFORNIA PLACE APARTMENTS, LLC, CAMELOT LAKES HOLDINGS, LLC, CANYON CLUB HOLDINGS, LLC, COURTYARD AT CENTRAL PARK APARTMENTS, LLC, CREEKSIDE HOLDINGS, LTD, HAYWARD SENIOR APARTMENTS, LP, HERITAGE PARK APARTMENTS, LP, OAK VALLEY APARTMENTS, LLC, OAK VALLEY HOLDINGS, LP, PEPPERTREE APARTMENT HOLDINGS, LP, PIEDMONT APARTMENTS, LP, POINT NATOMAS APARTMENTS, LLC, POINT NATOMAS APARTMENTS, LP, RIVER OAKS HOLDINGS, LLC, SHADOW WAY APARTMENTS, LP, SPRING VILLA APARTMENTS, LP, SUN VALLEY HOLDINGS, LTD, VILLAGE GROVE APARTMENTS, LP, WASATCH QUAIL RUN GP, LLC, WASATCH PREMIER PROPERTIES, LLC, WASATCH POOL HOLDINGS III, LLC, and DOES 1-4,

Defendants.

STIPULATION AND ORDER TO AMEND THE SCHEDULING ORDER AND SET BRIEFING DEADLINES

Plaintiffs and Relators Denika Terry, Roy Huskey III, and Tamera Livingston as court appointed representatives for the certified classes of California tenants and as relators for the United States and Defendants Wasatch Property Management, *et al.* (together the Parties), by and through their undersigned counsel, 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 modification;

WHEREAS, the current scheduling order (ECF No. 143), as modified by a stipulation and order signed by the Court on January 13, 2022 (ECF No. 222), provides for the following approaching deadlines:

- Expert discovery shall be completed no later than March 18, 2022;
- All dispositive motions, except for motions for continuances, temporary restraining orders or other emergency applications, shall be heard by May 27, 2022;
- Additional scheduling conference shall be held on July 14, 2022;

WHEREAS, the Parties timely completed initial and rebuttal expert disclosures, are diligently pursuing expert discovery, and have begun meeting and conferring about dispositive motions;

1. Extending Expert Discovery Deadline by One Business Day

WHEREAS, Defendants' expert, Robert Griswold, is not available for deposition before the expert discovery period closes on March 18, 2022;

WHEREAS, Mr. Griswold, Defendants' Counsel and Plaintiffs' Counsel are all available for the deposition on March 21, 2022, which is only one business day after the current expert discovery cut-off;

WHEREAS, the Parties stipulate and agree that Mr. Griswold will provide any deposition corrections within two weeks (14 days) from the date the reporter transmits the transcript to the Parties;

WHEREAS, extending the discovery period by a single business day is warranted to accommodate Mr. Griswold's schedule, enable the deposition to go forward, and will not unduly delay the litigation;

2. Setting a Briefing Schedule and Extending the Dispositive Motion Hearing Date

WHEREAS, the Parties have not previously requested a modification to the dispositive motion hearing date set by this Court (ECF No. 143) following the most recent scheduling conference on October 28, 2021;

WHEREAS, Defendants intend to file a Motion for Summary Judgment or, in the Alternative, Class Decertification;

WHEREAS, in addition to opposing Defendants' Motion, Plaintiffs intend to file a Cross Motion for Partial Summary Judgment;

WHEREAS, the Parties may also file Motions to Strike Expert Testimony under *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 (1993);

WHEREAS, taken together these motions will address multiple significant legal issues and an extensive factual record;

WHEREAS, to afford the Parties adequate time to address the issues presented by the motions, the Parties wish to stipulate to an agreed briefing schedule;

WHEREAS, extended briefing timelines are further appropriate in this case because Defendants have marked the vast majority of their voluminous produced documents "confidential" or "highly confidential," and therefore the Parties anticipate that additional time will be needed in order for Plaintiffs to comply with their duty under this Court's standing scheduling order (ECF No. 144) to timely notify Defendants of their intended exhibits and for Defendants to file any motions to seal;

WHEREAS, under the Parties' proposed briefing schedule, the deadline for filing dispositive motions remains unchanged from that applicable under the current scheduling order (*i.e.*, April 22, 2022);

WHEREAS, extending the dispositive motion hearing date by approximately one month to July 1, 2022 would accommodate the Parties' proposed briefing schedule and also provide the Court additional time to review the Parties' briefs prior to the hearing;

WHEREAS, the proposed briefing schedule and extension to the dispositive motion hearing date will not unduly delay the litigation or prejudice any party;

3. Stipulation and [Proposed] Amendments to the Scheduling Order

THEREFORE, the Parties jointly stipulate and request that the Court order that the Scheduling Order (ECF Nos. 143, 222) be modified to reflect the following deadlines:

- Expert discovery shall be completed no later than ~~March 18, 2022~~ **March 21, 2022;**
- Briefing Schedule for Dispositive Motions and *Daubert* Motions:
  - Dispositive motions filed by **April 22, 2022;**
  - Dispositive motion opposition briefs filed by **May 13, 2022;**
  - *Daubert* motions filed by **May 13, 2022**;
  - Dispositive motion reply briefs filed by **May 27, 2022;**
  - *Daubert* motion opposition briefs filed by **May 27, 2022;**
  - *Daubert* motion reply briefs filed by **June 10, 2022;**
- All dispositive motions, except for motions for continuances, temporary restraining orders or other emergency applications, shall be heard by ~~May 27, 2022~~ **July 1, 2022**;
- A further scheduling conference shall be held on ~~July 14, 2022~~ **August 12, 2022**;

If the Court does not adopt the proposed briefing schedule, the Parties jointly stipulate and respectfully request that the Court leave the current deadline for the dispositive motion hearing on May 27, 2022.

Dated: March 8, 2022

Respectfully submitted,

GOLDSTEIN, BORGEN, DARDARIAN & HO

/s/ Anne P. Bellows
Anne P. Bellows

Attorneys for Plaintiffs and Relators

Dated: March 8, 2022

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

/s/ Ryan Matthews (as authorized 3/8/22)
Ryan Matthews

Attorneys for Plaintiffs and Relators

Order

Good cause appearing, the Court hereby ORDRERS that the scheduling order be modified to reflect the following deadlines for Phase 1 liability discovery and dispositive motion briefing:

- Expert discovery shall be completed no later than **March 21, 2022;**
- Briefing Schedule for Dispositive motions and *Daubert* motions:
  - Dispositive motions filed by **April 22, 2022;**
  - Dispositive motion opposition briefs filed by **May 13, 2022;**
  - *Daubert* motions filed by **May 13, 2022**;
  - Dispositive motion reply briefs filed by **May 27, 2022;**
  - *Daubert* motion opposition briefs filed by **May 27, 2022;** and
  - *Daubert* motion reply briefs filed by **June 10, 2022;**
- All dispositive motions, except for motions for continuances, temporary restraining orders or other emergency applications, shall be heard by **July 8, 2022**; and
- A further scheduling conference shall be held on **August 11, 2022, at 2:30 p.m.** before Chief Judge Kimberly J. Mueller.

SO ORDERED.

DATED: March 15, 2022.

CHIEF UNITED STATES DISTRICT JUDGE