

2. The Court granted the motion, but noted that no proposed order had been submitted with the motion setting forth new proposed deadlines in this case, and the Court therefore selected the new deadlines without input from Defendants. Defendants had prepared a proposed Fourth Amended Scheduling Order, but inadvertently failed to attach it to their motion.¹ Defendants' proposed order would have, *inter alia*, extended fact discovery through August 8, 2014 and expert discovery through October 31, 2014. The Court's Fourth Amended Scheduling Order, *inter alia*, set a fact discovery deadline of July 11, 2014 and a expert discovery deadline of September 26, 2014.

3. The status of the DOJ documents is as follows:

a. Given the volume of the documents, counsel for Plaintiff and Defendants conducted a preliminary review of the documents shortly after they arrived to determine what materials would need to be scanned for later substantive review and scrutiny.

b. Each of the 100 plus boxes and redwells were reviewed and then marked for scanning. An inventory of the materials to be scanned was made and a system for scanning was developed and agreed upon by counsel.

c. To date boxes/redwells identified as: 1,11-1, 11-2,12,13,14,18-1, 19, 20, 21, 23, 24, 25, 26, 29, 31, 32, and 37 have been scanned. This represents approximately 25% of the total scanning project. There remain 59 additional boxes/redwells to be scanned.

d. Despite Ms. Bailey and her staff's diligent efforts, the process is slow and cumbersome. Many of the documents require significant "hands-on-glass" time as the documents are, *inter alia*, not always in pristine condition, are of irregular size or must be disassembled before scanning.

¹ A copy of the omitted proposed order was attached to Defendants' Motion to Amend and Clarify Fourth Amended Scheduling Order filed on May 20, 2014. As noted in that motion and the Plaintiff's response filed on May 23, 2014, none of the other parties objected to the dates proposed by Defendants.

e. Ms. Bailey estimates at least another two (2) to three (3) months to complete the scanning project.

f. As an alternative, the parties have explored shipping the remaining documents to a document processing service in Pennsylvania, AlphaLit, with a turnaround time of approximately three (3) weeks and an additional cost of approximately \$21,500.²

4. All parties have a need for additional discovery in this case as reflected in the six notices scheduling depositions from August 6 – 8, 2014. In that regard, counsel for Plaintiff and Defendants informally agreed that the fact deposition deadline could be extended to August 8, 2014. Based on that agreement, notices of deposition were filed and served by counsel for Defendants. See email dated July 8, 2014 attached as **Exhibit A**.³ Given the status of the processing of the DOJ documents described above, it is obvious that most of the DOJ documents will not be available to the parties until September under the best of circumstances. No one can dispute that meaningful access to this information should be available before depositions are concluded.

5. Counsel for the parties attempted to agree on new dates for a proposed fifth amended scheduling order. Although there were minor differences in the parties proposed dates for fact and expert discovery deadlines, the sticking point on entry of a stipulation ultimately came down to Plaintiff's counsel's insistence on language that would categorically bar Defendants from seeking any further extension of fact discovery. In the experience of Defendants' counsel, that request is both unusual and unreasonable, particularly in light of the document processing issues described above. The Court should always be the final arbiter of any

² The parties have already purchased the high speed scanner used by Ms. Bailey and her staff at the cost of \$18,000 and rented premises for the storage and scanning of the DOJ documents at a cost of approximately \$8,800 per year.

³ It now appears based on an email exchange of today's date that Plaintiff and his sons have reneged on this informal agreement.

further request for changes to its scheduling orders, and Defendants cannot agree to a clause that prevents them from even asking for another extension in the future if there is some good cause to justify it.

6. The dates set forth in the attached proposed Fifth Amended Scheduling Order represent only modest extensions of the discovery dates set forth in the actual and proposed Fourth Amended Scheduling Order as follows:

	Fourth Amended Scheduling Order	Proposed Fourth Amended Scheduling Order	Proposed Fifth Amend Scheduling Order
Fact Discovery Deadline	July 11, 2014	August 8, 2014	September 30, 2014
Expert Discovery Deadline	September 26, 2014	October 31, 2014	November 26, 2014

While the attached proposed Fifth Amended Scheduling Order does compress expert discovery somewhat, it has been done in an effort to accommodate the DOJ document processing issues described above and to preserve the December 1, 2014 trial date, which was first set in this Court's Second Amended Scheduling Order dated March 24, 2014.⁴

⁴ Although Defendants do not currently seek an adjustment of the trial date, it should be noted that all three of the competing plans for winding up the partnership--the Yusuf Plan filed on April 7, 2014, the Hamed Plan filed on April 30, 2014, and the United/Yusuf Plan filed on June 16, 2014--contemplate the appointment of a Master to supervise the liquidation of the partnership, which § 8(B)(2) of each plan contemplates will take at least six (6) months. Moreover, § 8(B)(3)(Step8) of the Yusuf and Hamed Plans and § 8(B)(3)(Step 6) of the United/Yusuf Plan provide for the presentation of an accounting and distribution plan within 45 days after completion of liquidation and that "thereafter, the Master shall make a report and recommendation of distribution to the Court for its final determination." Given these time periods in all three plans, Defendants submit that a December 1, 2014 trial appears unrealistic. In addition, Hamed last week served a new complaint against United, SX-14-CV-287, which has been assigned to the Honorable Douglas A. Brady, the judge assigned to this case. United will timely answer the new complaint, which alleges the same or similar claims involving the purported conversion of \$2.7 million from partnership accounts as alleged in the Amended Complaint in this case. Given the likely consolidation of these related cases, the Court may, at the appropriate time, need to at least consider extending the discovery and trial dates in this matter.

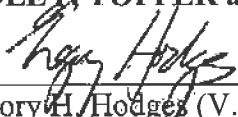
The attached order does not include the unusual language sought by Plaintiff and it modifies the procedure for filing expert reports as requested by Plaintiff at page 2 of his Reply to Defendants' Opposition to Motion to Reconsider Scheduling Deadlines filed June 23, 2014. Defendants respectfully request that the Court enter the attached proposed order at the Court's earliest convenience since the parties cannot agree on these important scheduling issues.

Respectfully submitted,

DUDLEY, TOPPER and FEUERZEIG, LLP

Dated: July 30, 2014

By:



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CERTIFICATE OF SERVICE


I hereby certify that on this 30th day of July, 2014, I caused the foregoing Emergency Motion To Further Extend Scheduling Deadlines to be served upon the following via e-mail:

Joel H. Holt, Esq.
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Gregory H. Hodges

From: Gregory H. Hodges
Sent: Tuesday, July 08, 2014 4:40 PM
To: 'Joel Holt'; Carl Hartmann (carl@carlhartmann.com); 'mark@marckeckard.com'
Cc: Nizar A. DeWood (dewoodlaw@gmail.com); Charlotte Perrell
Subject: Hamed v. Yusuf
Attachments: image001.jpg; 1574524-Notice of Video Taped Deposition - Waheed Hamed.PDF; 1574527-Notice of Video Taped Deposition - Mufeed Hamed.PDF; 1574531-Notice of Video Taped Deposition - Hisham Hamed.PDF; 1574532-Notice of Video Taped Deposition - Waleed Hamed.PDF

Attached are notices of depositions of the individual additional counterclaim defendants, which I am filing as placeholders under the informal agreement we have to extend fact depositions until August 8th. I am amenable to rescheduling these depositions in an effort to accommodate the schedules of deponents and counsel to the extent reasonably possible. As I briefly discussed with Joel this afternoon, I would like to discuss further extending fact discovery beyond the date provided in the proposed Fifth Amended Scheduling Order (August 8th) because it currently appears highly unlikely that all the documents in Joyce Bailey's possession will be scanned and made available before then. I also understand that some of the Hameds and Yusufs may be planning to attend an off island food show during the week of August 4th.

Please consider these issues and let's attempt to agree on a further modification of the scheduling order.

Gregory H. Hodges

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3. STATUS CONFERENCE

A Status Conference shall be held on **Thursday, October 9, 2014 at 10:00 a.m.**, in Courtroom No. 211.

4. FINAL PRETRIAL CONFERENCE

A Final Pretrial Conference will be held on **Wednesday, November 26, 2014 at 3:30 p.m.**, in Courtroom No. 211.

5. TRIAL DATE

Jury Selection and Trial shall take place on **Monday, December 1, 2014 at 9:00 a.m.**, in Courtroom No. 211. Finally, it is

ORDERED that all dates set forth in this Court's May 15, 2014, Fourth Amended Scheduling Order are VACATED.

Dated: July , 2014

DOUGLAS A. BRADY, JUDGE
Judge of the Superior Court

ATTEST:

ESTRELLA GEORGE
Acting Clerk of the Court

By: _____
Court Clerk Supervisor