

WENDY J. OLSON, Bar No. 7634
wendy.olson@stoel.com
ALAINA HARRINGTON, Bar No. 11879
alaina.harrington@stoel.com
STOEL RIVES LLP
101 S. Capitol Boulevard, Suite 1900
Boise, ID 83702
Telephone: 208.389.9000

LINDSAY C. HARRISON*
lharrison@jenner.com
JESSICA RING AMUNSON*
jamunson@jenner.com
SOPHIA W. MONTGOMERY*
smontgomery@jenner.com
RUBY C. GIAQUINTO*
rgiaquinto@jenner.com
JENNER & BLOCK LLP
1099 New York Avenue, NW, Suite 900
Washington, D.C. 20001
Telephone: 202.639.6000
*admitted pro hac vice

Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

ST. LUKE'S HEALTH SYSTEM, LTD.,

Plaintiff,

v.

RAÚL LABRADOR, Attorney General of the
State of Idaho,

Defendant.

Case No. 1:25-cv-00015-BLW

**PLAINTIFF'S MOTION FOR
EXTENSION OF UNEXPIRED
SCHEDULING ORDER DEADLINES**

In light of the pace of discovery and ongoing negotiations concerning the protective order in this case, Plaintiff St. Luke's Health System, Ltd. hereby moves for a global three-month extension of unexpired deadlines from the Court's Scheduling Order, ECF No. 59. Pursuant to

Local Rule 37.1, Plaintiff has conferred with counsel for Defendant Raúl Labrador on his position; Defendant opposes the Motion. The requested extension is necessary because, although the parties have made initial progress on discovery, there remain a substantial number of outstanding issues which require additional time for the parties to address, and in particular Plaintiff has an upcoming deadline for disclosing expert witnesses which is not feasible in the currently allotted time given that Defendant has not yet responded to Plaintiff's discovery requests.

BACKGROUND

Discovery in this case has progressed over the past five months but has not proceeded quickly enough to complete discovery according to the deadlines in the Scheduling Order. In particular, as discussed further below, both parties have served written discovery, but each side has requested and agreed to an extension for responding until October 31, 2025. Additionally, the parties continue to negotiate the details of a protective order to govern this case.

Per this Court's May 7, 2025, Order, Plaintiff proposed a protective order on May 21, 2025. *See* ECF No. 58. After sending multiple follow-up emails, Plaintiff received a counterproposal from Defendant on June 2. The negotiations continued in this fashion with the parties exchanging drafts, but nearly every time Defendant took six weeks or longer to respond; specifically, the parties exchanged further drafts on: June 5 (Plaintiff); July 17 (Defendant); August 4 (Plaintiff); October 8 (Defendant); October 14 (Plaintiff); October 15 (Defendant); and October 15 (Plaintiff). Declaration of Wendy J. Olson ("Olson Decl."), Exs. C, D, E. While the parties have narrowed their disputes, it is still possible they will be unable to reach resolution on the remaining area of disagreement, which may require this Court's resolution. In particular, St. Luke's has proposed that the protective order include a provision that the parties agree they will not seek or use information obtained through discovery in this case to investigate or impose liability on any person

for seeking, obtaining, providing, or facilitating reproductive health care or to identify any person for those purposes. Defendant has objected to that provision. *Id.*, Ex. C at 1, 2; Ex. E.

Meanwhile, Defendant served its first set of discovery requests—comprising six interrogatories and 46 requests for production—on July 17. *Id.*, ¶ 4, Ex. A at 8. Plaintiff responded on July 25 to request a 30-day extension, stating that it was hopeful a response would be doable within that timeframe and noting that Plaintiff would not be able to produce many of the requested materials without a settled protective order. *Id.*, Ex. A at 7-8. Defendant agreed to that extension. *Id.*, Ex. A at 6-7. On September 2, Plaintiff served its own written discovery requests. *Id.*, Ex. B.

On September 11, Plaintiff reached out to request a further extension for its discovery responses, this time, until October 31. *Id.*, Ex. A at 5. Counsel explained the extensive efforts made thus far to identify responsive documents, totaling over 100 hours of counsel and client time. *Id.* Counsel also noted again the need for a protective order before it could send much of the anticipated production. *Id.* Defendant agreed to an extension through September 30 and stated that counsel would confer internally on the full extension requested. *Id.*, Ex. A at 4.

While awaiting Defendant's response on the full requested extension to respond to Defendant's discovery requests, Plaintiff approached Defendant on September 19 to further suggest a four-month global extension of deadlines in the Scheduling Order. *Id.* Plaintiff noted that "because no responses [to written discovery] have yet been provided it is too early to tell whether we will need to meet and confer or seek any relief from the Court regarding discovery," and given the parties' exchanges regarding the protective order, there was still more negotiating to do on that front as well. *Id.* Moreover, Plaintiff noted, it would not be possible to proceed with depositions until written discovery was complete. *Id.* On September 25, Defendant responded and agreed to confer regarding both the written discovery and global extensions over the phone. *Id.* at 3. During

the ensuing teams call on Tuesday, September 30, the parties agreed to a reciprocal written-discovery deadline until October 31, 2025. *Id.*, ¶ 4. Defendant’s counsel further represented that they would provide their position on a global extension early the following week. *Id.*

On Wednesday, October 8—less than a week before Plaintiff’s original expert disclosure deadline of October 13, and nearly three weeks after Plaintiff’s initial outreach on the global extension—Defendant provided its position that it would consent only to a three-month global extension, rather than a four-month extension, and only if: “Plaintiff agrees to (1) either the model protective or the version sending today; and (2) agrees that we need not identify, on a privilege log, all attorney-client communications that predate the filing of the complaint in *St. Luke’s Health System, Ltd. v. Labrador*, No. 1:25-cv-00015-BLW (D. Idaho), but were sent on or after the date of the filing of the complaint in *United States v. Idaho*, No. 1:22-cv-329-BLW (D. Idaho).” *Id.*, Ex. D at 2. This was the first time Defendant raised these substantive conditions on any extension. The following day, Plaintiff wrote to express that although it could agree to a three-month extension, it could not agree to Defendant’s conditions and would have to move the Court for relief. *Id.*, Ex. D at 1. Plaintiff received out-of-office messages from two of Defendant’s counsel indicating that they would be unavailable until after Plaintiff’s expert disclosure deadline had elapsed. *Id.* Plaintiff thus e-mailed chambers on October 9 and asked the Court for its preferred course of action; in response, the Court provided a short extension of Plaintiff’s expert disclosure deadline and directed the parties to submit simultaneous briefs on the broader extension. *See* Minute Order of Oct. 9, 2025.

With Plaintiff’s expert discovery deadline extended until October 23, Plaintiff again approached Defendant to ask about an alternative resolution to this dispute on October 14. Olson Decl., Ex. E at 3. Defendant responded that he would agree to the three-month extension, but again,

only if Plaintiff agreed to the second condition detailed above reducing Defendant’s privilege log obligations. *Id.* at 1-2. Having been unsuccessful in its attempt to resolve this issue without Court intervention, Plaintiff now moves the Court for an extension of its Scheduling Order deadlines.

ARGUMENT

Pursuant to Federal Rule of Civil Procedure 16(b)(5), a court may amend its scheduling order for “good cause.” *Johnson v. Mammoth Recreations*, 975 F.2d 604, 609 (9th Cir. 1992). In assessing the existence of good cause, courts look to both the “diligence of the party seeking amendment” and “the existence or degree of prejudice to the opposing party.” *Id.* at 608. In applying this standard, this Court has regularly granted extensions of the length Plaintiff seeks here in situations where ongoing disputes or negotiations between the parties have created delays in discovery. *See, e.g., Moonlight Mountain Recovery, Inc. v. McCoy*, No. 1:24-cv-00012-BLW, 2025 WL 1837345 (D. Idaho July 3, 2025) (three months); *Pizzuto v. Derrick*, No. 1:21-cv-00359-BLW, 2025 WL 2589663 (D. Idaho Aug. 29, 2025) (same); *Cardiogrip Corp. v. MD Sys., Inc.*, No. 05-cv-354-BLW, 2007 WL 1464254 (D. Idaho Jan. 4, 2007) (same). Here, Plaintiff has diligently proceeded with discovery and has worked collaboratively with Defendant to request and give extensions where needed based on the burdens of discovery and ongoing disputes regarding the protective order. In light of the extensions the parties have already agreed to, a global extension is necessary to facilitate the orderly progression of discovery. Further, the extension sought will not prejudice Defendant, who will also benefit from additional time to complete discovery.

As discussed above, Plaintiff has proceeded with discovery diligently. It has worked actively to both negotiate the parties’ disputes regarding the protective order and to progress with written discovery. Most recently, Plaintiff has diligently worked with Defendant to put in place mutually needed extensions to written discovery deadlines—with both parties having until

October 31, 2025, to respond to the other side's discovery requests. Given that these initial discovery responses have not yet been served, it is not feasible for Plaintiff to comply with the current deadline for disclosing experts of October 23, 2025, nor does it make sense for the Scheduling Order's other upcoming deadlines to remain unchanged. The parties cooperatively agreed to extensions of time for responding to written discovery, and the overall Scheduling Order should be modified on a global basis to reflect the time that the parties have afforded one another for those initial discovery responses.

This Court has held that where the parties collaboratively negotiate regarding extensions, only for agreement to an extension to be withheld at the final hour, there is good cause for a modification of the scheduling order. *See Cardiogrip Corp.*, 2007 WL 1464254, at *1 (where one party "indicate[d] a willingness to agree to the extensions," but ultimately "refused to agree," party seeking extension had proceeded with reasonable diligence in moving for relief). That is precisely what has occurred here: based on the parties' collaboration in mutually agreeing to written-discovery extensions, Plaintiff "was not unreasonable in believing that an agreement to extend could be reached" with respect to the Scheduling Order deadlines. *Id.* Instead, with Plaintiff's expert disclosure deadline looming, Defendant conditioned its consent to the extension on Plaintiff agreeing to substantive concessions that are unrelated to the timing of discovery. But the parties have already litigated, and the Court has already adjudicated, the privilege log issue forming the basis of Defendant's final-offer contingency. Given the current status of discovery, and the irrelevance of Defendant's proposed condition, a global three-month extension of the Scheduling Order's deadlines is warranted here.

What is more, Defendant will not be prejudiced by the sought extension. Defendant will, in fact, benefit, as it has provided no explanation for how discovery can reasonably proceed on the

current deadlines when the parties have not yet agreed on a protective order nor exchanged written discovery responses, let alone conferred on any disputes arising from such exchanges. Defendant's only stated objection to an extension of deadlines is the fact that "Idaho's law protecting life is enjoined at this time." But Defendant has not proceeded with haste commensurate with that concern in discovery so far, as evidenced by, *e.g.*, its two-month response time in the parties' latest exchange regarding the protective order. Indeed, Defendant decided to forego any appeal of the preliminary injunction, and should not now be permitted to invoke that as a basis for cutting off discovery that is otherwise needed for the case. Moreover, Plaintiff does not seek an extension beyond that necessary to ensure that discovery proceeds in an orderly and reasonable fashion.

Because Plaintiff cannot accept Defendant's proposed concessions and because an extension is needed to facilitate a reasonable progression of discovery despite Plaintiff's diligence, Plaintiff hereby moves the Court for the requested 3-month global extension to the unexpired deadlines in the Court's Scheduling Order. The revised deadlines would be as follows:

1. Disclosure of Experts:

- a. The **Plaintiff** must disclose the experts intended to be called at trial on or before **January 23, 2026**.
- b. The **Defendant** must disclose the experts intended to be called at trial on or before **February 23, 2026**.
- c. **Plaintiff's** rebuttal experts must be identified on or before **March 9, 2026**.
- d. **ALL** discovery relevant to experts must be completed by: **May 11, 2026**.

2. Completion of Fact Discovery: All fact discovery must be completed by **April 13, 2026**.

3. Dispositive Motion Deadline: All dispositive motions, including motions for punitive damages, must be filed by **May 26, 2026**.

Dated: October 16, 2025

Respectfully submitted,

Wendy J. Olson

/s/ Wendy J. Olson

Wendy J. Olson, Bar No. 7634
Alaina Harrington, Bar No. 11879
Stoel Rives LLP
101 S. Capitol Blvd.
Suite 1900
Boise, ID 83702
(208) 387-4291
wendy.olson@stoel.com

Lindsay C. Harrison*
Jessica Ring Amunson*
Sophia W. Montgomery*
Ruby C. Giaquinto*
Jenner & Block LLP
1099 New York Ave NW, Suite 900
Washington, D.C. 20001
(202) 639-6000
lharrison@jenner.com
*admitted pro hac vice

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2025, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which sent a notice of electronic filing to the following persons:

Brian V. Church
brian.church@ag.idaho.gov

Chad Golder
cgolder@aha.org

David J. Meyers
david.meyers@ag.idaho.gov

Stephen Lee Adams
sadams@gfidaholaw.com

Attorneys for Attorney General Labrador

*Attorneys for Amici American Hospital
Association, America's Essential Hospitals,
and the American Association of Medical
Colleges*

/s/ Wendy J. Olson