

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF CALIFORNIA

No.: 2:19-cv-00559 (DAD) (JDP)

3 UNITED STATES,
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5 STATE OF CALIFORNIA,
6 STATE OF COLORADO,
7 STATE OF GEORGIA,
8 STATE OF HAWAII,
9 COMMONWEALTH OF VIRGINIA,
10 STATE OF WASHINGTON,

ex rel. JEFFREY MAZIK,

Plaintiffs,

v.

12 KAISER FOUNDATION HEALTH PLAN,
13 INC., KAISER FOUNDATION HOSPITALS,
14 INC., and THE PERMANENTE MEDICAL
15 GROUPS,

Defendants.

**JOINT STATUS REPORT
AND PROPOSED CASE
SCHEDULE**

16 Pursuant to this Court’s order directing the Parties to file “a joint status report
17 regarding the scheduling of this action” (ECF no. 104 at 29), with the deadline to do so
18 adjourned to April 9, 2024 (ECF no. 106), the Parties accordingly submit the following
19 status report and proposed schedule.
20

21 ***Status Report***

22 The parties previously submitted a “Preliminary Joint Rule 26(F) Report and
23 Proposed Limited Discovery Plan.” (ECF no. 88.) As agreed upon pursuant to that plan,
24 the parties engaged in limited discovery, pending the Court’s ruling on Defendants’
25 motion to dismiss.
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1 On February 13, 2024, the Court issued its “Order Granting in Part and Denying
2 in Part Defendants’ Motion to Dismiss Relator’s First Amended Complaint” (ECF no.
3 104.) On March 26, 2024, Relator filed his Second Amended Complaint. (ECF no. 107.)
4 By order and stipulation, Defendants will respond to the Second Amended Complaint
5 by May 24, 2024. (ECF nos. 105, 106.)
6

7 Meanwhile, on April 8, 2024, Defendants filed a motion to transfer this case to
8 the U.S. District Court for the Northern District of California, where they are seeking
9 to consolidate the case with cases currently pending before Judge Edward M. Chen in
10 the Northern District of California (the “*Osinek Cases*”). (ECF no. 109.)
11

12 ***Proposed Discovery Schedule***

13 Because Defendants seek to have this matter transferred and consolidated with
14 the *Osinek Cases*, they propose that the case management schedule in this matter align
15 as much as possible with the case management schedule in the *Osinek Cases*. See
16 *United States ex rel. Osinek v. Kaiser Permanente*, 13-cv-3891-EMC (N.D. Cal.), ECF no.
17 332 (Order Granting As Modified Stipulation to Amend the Case Management Order).
18 Accordingly, under Defendants’ proposal below, the case management schedule in this
19 matter would align with the case management schedule in the *Osinek Cases*, with the
20 exception of the Provisional Hearing Date on Dispositive Motions and FRE 702
21 Motions, the Pretrial Conference, and the start of trial to avoid overlapping dates for
22 those events in case this matter remains in the Eastern District of California.
23

24 While Relator has yet to respond to the transfer motion, Relator has no objection
25 to proceeding on a similar timetable (whether in this Court or in the Northern District).
26 Under Relator’s proposal, the parties will proceed with discovery 90 days after the
27

1 *Osinek* Cases. Relator further proposes that the parties simultaneously exchange initial
 2 expert reports on any issues for which each side bears the burden of proof. Both sides
 3 will then simultaneously exchange rebuttal expert reports 45 days later, followed by 45
 4 days to complete expert depositions. This is an equitable and established approach to
 5 scheduling expert discovery. *See, e.g., In re Eur. Gov't Bonds Antitrust Litig.*, 2022 WL
 6 4129500, at *4 (S.D.N.Y. Sept. 12, 2022) (“schedule shall provide for the simultaneous
 7 exchange of merits expert reports and rebuttal reports”); *Ironshore Ins. Ltd. v. W. Asset*
 8 *Mgmt. Co.*, 2013 WL 2051863, at *1 (S.D.N.Y. May 15, 2013) (scheduling order
 9 “provided for a simultaneous exchange of initial expert reports ‘on issues as to which
 10 [ea]ch party has the burden of proof or otherwise in support of the party's case,’ to be
 11 followed by ‘[r]ebuttal disclosures”); *United States v. Merck-Medco Managed Care,*
 12 *L.L.C.*, 2005 WL 273030, at *2 (E.D. Pa. Feb. 2, 2005) (scheduling expert reports to be
 13 exchanged simultaneously in both the initial and rebuttal rounds).
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	DEFENDANTS' PROPOSED DEADLINE	RELATOR'S PROPOSED DEADLINE
Fact Discovery Deadline	7/15/2025	10/15/2025
Deadline for Designation of Experts and Service of Affirmative Expert Reports	9/4/2025 (Plaintiff)	12/4/2025 (Simultaneous exchange)
Deadline for Designation of Experts, Service of Affirmative Expert Reports, and Service of Rebuttal Expert Reports	11/10/2025 (Defendants)	1/19/2026 (Simultaneous rebuttal)

	DEFENDANTS' PROPOSED DEADLINE	RELATOR'S PROPOSED DEADLINE
Deadline for Plaintiff's Service of Rebuttal Expert Reports	1/22/2026	(Built-in above)
Close of Expert Discovery	3/5/2026	3/6/2026
FRE 702 Motions		
Deadline for filing Federal Rule of Evidence 702 motions	3/30/2026	6/30/2026
Deadline for oppositions to Federal Rule of Evidence 702 motions	5/8/2026	8/10/2026
Deadline for replies in support of Federal Rule of Evidence 702 motions	5/29/2026	8/28/2026
Dispositive Motions		
Deadline for filing all dispositive motions	6/19/2026	9/18/2026
Deadline for oppositions to dispositive motions	8/18/2026	11/18/2026
Deadline for replies in support of dispositive motions	10/16/2026	1/15/2027
Provisional Hearing Date on Dispositive Motions [and FRE 702 Motions]	12/15/2026	2/15/2027

	DEFENDANTS' PROPOSED DEADLINE	RELATOR'S PROPOSED DEADLINE
Pretrial Meet-and-Confer	2/1/2027	5/3/2027
Deadline for Joint Pretrial Statement and Trial Briefs	2/22/2027	5/21/2027
Deadline for Objections	3/4/2027	6/4/2027
Pretrial Conference	3/23/2027	6/16/2027
Start of Trial	7/19/2027 9:00 am (to avoid overlapping with <i>Osinek</i> trial, which is scheduled through 6/18/2027)	10/25/2027 9:00 am

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