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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 FACET TECHNOLOGIES, LLC,

11 Plaintiff,

12 v.

13 LIFESCAN, INC.,

14 Defendant.
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Case No. 2:22-cv-01717-MCS-MAR

**ORDER REGARDING
DEFENDANT’S MOTION TO
AMEND THE SCHEDULING
ORDER, (ECF No. 130), AND
PARTIES’ JOINT STIPULATION TO
AMEND THE SCHEDULING
ORDER, (ECF No. 166)**

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19 Defendant Lifescan, Inc. filed a motion to amend the scheduling order. (Mot.
20 ECF No. 130.) Plaintiff Facet Technologies, LLC opposed the motion, (Opp’n, ECF
21 No. 137), and Defendant replied, (Reply, ECF No. 153). Subsequent to that motion,
22 the parties filed a joint stipulation to modify the scheduling order. (Stip., ECF No. 166.)
23 The Court deems these matters appropriate for decision without oral argument. *See* Fed.
24 R. Civ. P. 78(b); C.D. Cal. R. 7-15.

25 Both matters are governed by the same standard. “[D]istrict judges have broad
26 discretion to manage discovery and to control the course of litigation under Federal Rule
27 of Civil Procedure 16.” *Avila v. Willits Env’t Remediation Tr.*, 633 F.3d 828, 833 (9th
28 Cir. 2011). In general, the pretrial scheduling order can only be modified “upon a

1 showing of good cause.” *Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1087 (9th Cir.
2 2002) (quoting *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 608 (9th Cir.
3 1992)); accord Fed. R. Civ. P. 16(b)(4). “The pretrial schedule may be modified ‘if it
4 cannot reasonably be met despite the diligence of the party seeking the extension,’” but
5 “[i]f the party seeking the modification ‘was not diligent, the inquiry should end’ and
6 the motion to modify should not be granted.” *Zivkovic*, 302 F.3d at 1087 (quoting
7 *Johnson*, 975 F.2d at 609). Prejudice to the opposing party, though not the focus of the
8 inquiry, also may support denying a motion. *Johnson*, 975 F.2d at 609.

9 Defendant’s motion to amend the scheduling order is DENIED. The Court has
10 been clear that it expects parties to adhere to the schedule. (See Initial Standing Order
11 § 4, ECF No. 9.) This is particularly true where one of the parties opposes a
12 modification on the grounds that it will be prejudiced. (See Opp’n 15–16.) The
13 schedule for this litigation was set almost a year ago, (see Order Re: Jury Trial, ECF
14 No. 57 (filed June 29, 2022)), and a request to extend a discovery deadline filed mere
15 weeks before the deadline is contrary to the Court’s clear guidance, (see *id.* § I(B)(1)).
16 Finally, given the crowded nature of the Court’s docket, the Court is committed to
17 resolving this dispute as expeditiously as possible, and is *strongly* disinclined to grant
18 any modifications that risk delaying the start of trial.

19 The parties’ joint stipulation is GRANTED. The concerns expressed above
20 concerning Defendant’s motion are generally minimized in the joint stipulation. Good
21 cause exists to grant a limited extension of certain case deadlines in light of the
22 Magistrate Judge’s resolution of a discovery motion less than a week before the non-
23 expert discovery cut-off. (Stip. 2.) There is no risk of prejudice given the parties’
24 mutual assent to the requested relief, and the parties have affirmed the requested
25 modification will not delay trial. (*Id.* at 5.)

26 In light of this modification, the Court expects there will be no further requests
27 to change the schedule. To that end, the Court will not entertain any stipulation, ex
28 parte application, or motion to extend any other deadline absent extraordinary

circumstances. The parties are hereby put on notice that any request to modify any other deadline in this case that is unsupported by such evidence will be deemed a willful disregard of this Court's order and will result in monetary sanctions without further warning.

Accordingly, the case deadlines are amended as follows:

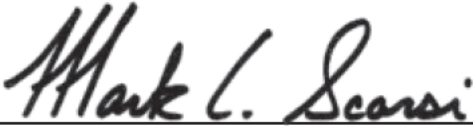
1. May 15, 2023 – deadline to complete document production (previously May 1, 2023)
2. May 26, 2023 – deadline to complete the depositions of LifeScan's 30(b)(6) witness, Anthony Cruz, Val Asbury, Greg Lamps, Philip Lawless, Asahi's 30(b)(6) witness, Bill Forrest, Kevin Seifert, Facet's 30(b)(6) witness, and two additional witnesses noticed by each party, each party being required to produce its witnesses between May 15 and May 26, 2023 (previously May 1, 2023)
3. July 30, 2023 – deadline to complete the deposition of Keith Nowak. Mr. Nowak's deposition should be scheduled as soon as his health permits, and to the extent he is unable to sit for deposition, Facet is permitted to take Carter Ledyard's Rule 30(b)(6) deposition in lieu of Mr. Nowak's deposition (previously May 1, 2023)
4. May 26, 2023 – Non-Expert Discovery Cutoff (previously May 1, 2023)
5. June 7, 2023 – Expert Disclosure (Initial) (previously May 15, 2023)
6. June 20, 2023 – Expert Disclosure (Rebuttal) (previously May 30, 2023)
7. June 30, 2023 – Expert Discovery Cut-Off (previously June 12, 2023)
8. July 3, 2023 – Last Day to Hear Motions (previously June 12, 2023)
9. July 7, 2023 – Deadline to Complete Settlement Conference by Private Mediation (previously June 20, 2023)
10. August 7, 2023 – Trial Filings (First Round) (existing deadline, no change)
11. August 14, 2023 – Trial Filings (Second Round) (existing deadline, no change)

1 12.August 28, 2023 – Final Pretrial Conference (“FPTC”) [L.R. 16], Hearing
2 on Motions In Limine (existing date, no change)

3 13.September 12, 2023 – Trial (existing date, no change)

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5 **IT IS SO ORDERED.**

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7 Dated: May 4, 2023



MARK C. SCARSI
UNITED STATES DISTRICT JUDGE