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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	)	
	)	
Northwest Senior Housing Corporation, *et al.*,	)	Chapter 11
	)	
Debtors[1]	)	Case No. 22-30659 (MVL)
	)	
Leif M. Clark, Trustee of the Edgemere Litigation Trust,	)	
	)	
Plaintiff	)	
	)	
v.	)	Adv. No. 22-03040 (MVL)
	)	
Intercity Investment Properties, Inc., and Kong Capital, LLC,	)	
	)	
Defendants	)	

JOINT MOTION TO MODIFY SCHEDULING ORDER

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Northwest Senior Housing Corporation (1278) and Senior Quality Lifestyles Corporation ("SQLC") (2669). The Debtors' mailing address is 8523 Thackery Street, Dallas, Texas 75225.

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TO THE HONORABLE MICHELLE V. LARSON, UNITED STATES BANKRUPTCY JUDGE:

Defendants Intercity Investment Properties, Inc. ("**ICI**") and Kong Capital, LLC ("**Kong**, referred to collectively with ICI as the "**Defendants**"), jointly with Plaintiff Leif M. Clark, solely in his capacity as Trustee of the Edgemere Litigation Trust (the "**Plaintiff**," or the "**Trustee**," referred to collectively with Defendants as the "***Parties***"), brings this *Joint Motion to Modify the Scheduling Order* for cause under rules 15(a) and 16(b)(4) of the Federal Rules of Civil Procedure (the "**Rules**"), applicable here by operation of rules 7015 and 7016 of the Federal Rule of Bankruptcy Procedure (the "**Bankruptcy Rules**"). In support of this Motion, the Parties state:

1. The Plaintiff's predecessor in interest, Northwest Senior Housing Corporation, filed this adversary proceeding on April 14, 2022. (ECF 1).

2. The current order governing scheduling matters in this Case, appearing on the docket at ECF 342 (as modified by ECF 355 and ECF 461) (the "**Scheduling Order**") calls for the close of fact discovery at the end of April 2024, with additional dates and deadlines rapidly following thereafter.

3. As the Case has proceeded, the Parties have worked to advance the proceedings through discovery, but it is now apparent that the schedule set for this complex commercial litigation matter has proven overly ambitious and insufficient to allow the time necessary for the Parties to conduct and complete discovery on the Scheduling Order's existing timeline.

4. As the Court is aware, the Parties have diligently pursued written discovery and depositions in this Case. However, despite the Parties' best efforts, the Parties cannot complete certain necessary or advisable depositions before the current close of fact discovery. Further, there remain pending discovery motions, and additional time will be necessary to produce and review

any supplemental productions either Party may make or be compelled to make, which will not be completed prior to the currently-scheduled close of fact discovery.

5. The Scheduling Order permits the Parties to modify the schedule for this Case by agreement and without further order of Court, except where proposing to modify hearing dates or dates for final submissions by the Parties. (ECF 461 at ¶ 14).

6. Given the posture of the Case, and the need for additional time for the Parties to properly prepare for trial in this matter, the Parties propose that the dates and deadlines set forth in the Scheduling Order be modified as follows:

Event	Current Date	Proposed Modified Date
1. Close of ***written*** fact discovery	April 26, 2024	*(no change)*
2. Close of ***oral*** fact discovery	April 26, 2024	June 26, 2024
3. Deadline to produce supplemental or amended expert witness list and reports	May 17, 2024	July 17, 2024
4. Deadline to exchange rebuttal expert reports	July 12, 2024	September 12, 2024
5. Close of expert discovery	August 9, 2024	September 26, 2024
6. Deadline to file dispositive and *Daubert* motions	September 6, 2024	November 6, 2024
7. Dispositive and *Daubert* motion response deadline	October 6, 2024	December 6, 2024
8. Dispositive and *Daubert* motion reply deadline	October 21, 2024	December 20, 2024
9. Hearing on dispositive and *Daubert* motions	November 1, 2024	January 24, 2025
10. Witness and exhibit lists and deposition designations due	October 25, 2024	February 10, 2025
11. Deadline to object to witnesses, exhibits or deposition designations	November 15, 2024	February 28, 2025
12. Deadline to submit proposed findings of fact and conclusions of law	December 20, 2024	March 14, 2025
13. Deadline to file and serve trial briefs	December 20, 2024	March 14, 2025

Event	Current Date	Proposed Modified Date
14. Deadline to file motions *in limine*	December 20, 2024	March 14, 2025
15. Deadline to submit Joint Pretrial Order	December 20, 2024	March 14, 2025
16. Final pretrial conference	One week before Docket Call	*(no change)*
17. Docket call	To be established by the Court	*(no change)*
18. Trial commencement	To be established by the Court	*(no change)*

WHEREFORE, the Parties respectfully request that the Court enter an order substantially in the form of the accompanying proposed order, and that the Court enter such other or additional relief as it may deem just and appropriate in the circumstances.

Dallas, Texas
April 22, 2024

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In Re: NORTHWEST SENIOR HOUSING CORPORATION, *et al*.[2] Debtors.	Chapter 11 Case No. 22-30659 (MVL)
Leif M. Clark, Trustee of the Edgemere Litigation Trust Plaintiff, v. Intercity Investment Properties, Inc. and Kong Capital, LLC, Defendants.	Adv. No. 22-03040 (MVL)

AMENDED AGREED SCHEDULING ORDER

[2] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Northwest Senior Housing Corporation (1278) and Senior Quality Lifestyles Corporation (2669). The Debtors' mailing address is 8523 Thackery Street, Dallas, Texas 75225.

Pursuant to Federal Rule of Civil Procedure 16, made applicable to this adversary proceeding by Federal Rule of Bankruptcy Procedure 7026, the Court issues the following amended scheduling order (this "**Scheduling Order**") [at the request of Leif M. Clark, solely in his capacity as Litigation Trustee of the former Debtor Northwest Senior Housing Corporation d/b/a Edgemere ("**Debtor**") and Defendants Intercity Investment Properties, Inc. and Kong Capital LLC ("**Defendants**")]. The rules of procedure referenced in this Scheduling Order are the Federal Rules of Civil Procedure as modified or made applicable to this proceeding by the Federal Rules of Bankruptcy Procedure.

IT IS ORDERED THAT:

1. Written fact discovery must be completed by April 26, 2024, and oral fact discovery must be completed by June 26, 2024. The parties may, by agreement, continue fact discovery beyond the deadlines, but the trial setting will not be vacated because of information obtained in post-deadline discovery except by further court order.

2. Parties must exchange any supplemental or amended expert witness list and expert reports required by FRCP 26(a)(2) by July 17, 2024. Only those expert witnesses will be permitted to testify. Within twenty-one (21) days thereafter, the parties will make their expert witnesses available for deposition.

3. Parties must exchange any rebuttal expert reports by September 12, 2024. Only those expert witnesses will be permitted to testify. Within fourteen (14) days thereafter, the parties will make their expert witnesses available for deposition.

4. Expert discovery must be completed by September 26, 2024.

5. Parties must file any dispositive motions and Daubert motions by November 6, 2024. Parties must file responses in opposition to dispositive and Daubert motions by December

6, 2024. Parties must file replies in support of dispositive motions by December 20, 2024. A hearing on dispositive motions shall be held no later than January 24, 2024.

6. Parties must file and serve witness and exhibit lists and deposition designations by February 10, 2024. Each exhibit shall be marked with an exhibit label. Except for impeachment documents, the parties shall submit a joint list of all exhibits. Written objections to any such witness, exhibit, or deposition designation by the opposing party must be filed and served by February 28, 2024. All exhibits on the joint list shall be admitted into evidence at trial without further proof, except for objections to relevance. Written objections to exhibits will be taken up either at the beginning or during the course of the actual trial or at any pretrial conference.

7. Parties must file proposed findings of fact and conclusions of law by March 14, 2025.

8. Parties must file and serve trial briefs on disputed issues of law by March 14, 2025.

9. Parties must file any motions *in limine* by March 14, 2025.

10. A Joint Pretrial Order in compliance with Local District Court Rule 16.4 shall be filed, served, and uploaded for Court entry by March 14, 2025. All counsel are responsible for preparing the Joint Pretrial Order, which shall contain the following: (a) a summary of the claims and defenses of each party; (b) a statement of stipulated facts; (c) a list of the contested issues of fact; (d) a list of contested issues of law; (e) an estimate of the length of trial; (f) a list of additional matter which would aid in the disposition of the case; and (g) the signature of each attorney.

11. The final pretrial conference shall occur one week before Docket Call.

12. Docket call shall take place on a date to be established by the Court.

13. Trial is set to commence on a date to be established by the Court.[3]

14. Except as otherwise set forth herein, the parties are granted leave to agree to modify any of the dates set forth in this Order without further order of the Court. However, the parties may not modify any hearing date or the date of a final submission by any party prior to any hearing date without further order of the Court.

15. Sanctions may be imposed for failure to comply with this Order.

END OF ORDER###

[3] The Defendants have not consented to entry of final judgment by the Bankruptcy Court, and therefore state that the date on which trial is set to commence will be determined by the availability of trial dates of the assigned district court in the Northern District of Texas. Nothing in this Scheduling Order shall be construed as waiver of either Party's right to not consent or withdraw consent to trial proceeding in and entry of final judgment by this Court.