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Plaintiff DAIRYAMERICA, INC.

Attorneys for

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DAIRYAMERICA, INC.,)
)
) Plaintiff,)
)
) v.)
)
) NEW YORK MARINE AND GENERAL)
) INSURANCE COMPANY; CRUMP)
) INSURANCE SERVICES d.b.a. SOUTHERN)
) MARINE & AVIATION UNDERWRITERS;)
) ARTHUR J. GALLAGHER & CO.; and)
) HARTFORD CASUALTY INSURANCE)
) COMPANY; and DOES 1 through 75)
)
) Defendants.)

Case No.: 1:07-cv-00537-LJO-SMS

**JOINT STIPULATION AND ORDER
TO CONTINUE SCHEDULING
CONFERENCE DATES**

ACTION FILED: February 16, 2007
TRIAL DATE: November 16, 2009

WHEREAS, on December 2, 2008, the Court entered a Joint Stipulation and Order to Continue Scheduling Conference Dates (Document 47) setting the following dates in this action:

- Non-Expert Discovery Cutoff: March 27, 2009
- Expert Disclosure Deadline: April 27, 2009
- Supplemental Expert Disclosure Deadline: May 25, 2009
- Expert Discovery Cutoff: July 22, 2009
- Pre-Trial Motion Filing Deadline: August 11, 2009
- Pre-Trial Motion Hearing Deadline: September 14, 2009
- Settlement Conference: May 20, 2009, 10:00 a.m., Dept. 7

1 Pre-Trial Conference Date: October 7, 2009, 8:30 a.m., Dept. 4
2 Jury Trial (5 days est.): November 16, 2009, 9:00 a.m., Dept. 4

3 WHEREAS, on April 6, 2009, Plaintiff DAIRYAMERICA, INC. (“DairyAmerica”)
4 filed a Motion for Leave to File Third Amended Complaint (Documents 57-60) (“Motion to
5 Amend”) requesting the Court grant DairyAmerica leave to amend to add a bad faith cause of
6 action against Defendant HARTFORD CASUALTY INSURANCE COMPANY (“Hartford”);

7 WHEREAS, on April 20, 2009, the parties, wishing to continue certain Scheduling
8 Conference dates to allow DairyAmerica’s Motion to Amend to be heard and ruled upon in
9 advance of the Expert Disclosure Deadline, filed a Joint Stipulation and Proposed Order to
10 Continue Expert Disclosure Deadlines and Expert Discovery Cutoff Dates (Document 63);

11 WHEREAS, on April 27, 2009, the Court entered a Joint Stipulation and Order
12 (Document 70) continuing the Expert Disclosure Deadline to May 18, 2009, Supplemental Expert
13 Disclosure Deadline to July 6, 2009, and the Expert Discovery Cutoff to July 31, 2009;

14 WHEREAS, on May 7, 2009, the Court entered an Order Vacating Hearing on
15 Motion for Leave to File Third Amended Complaint and Deeming Motion Submitted for Decision,
16 Order Granting Plaintiff’s Motion for Leave to File Third Amended Complaint, Order Directing
17 the Parties to Proceed and Serve and Respond to The Third Amended Complaint, Order to the
18 Parties Concerning Scheduling, and Order Setting a Telephonic Status Conference (“Order”)
19 (Document 73);

20 WHEREAS, the Order directed Plaintiff to file its Third Amended Complaint,
21 directed the parties to proceed diligently with service of, and responses to the Third Amended
22 Complaint, and directed the parties to meet and confer and prepare and file an amended joint
23 scheduling conference statement proposing new scheduling conference dates in preparation for a
24 Telephonic Status Conference set for June 2, 2009;

25 WHEREAS, on May 13, 2009, the Court entered a Minute Order vacating the May
26 20, 2009, Settlement Conference, stating that the Settlement Conference date could be re-addressed
27 in the Telephonic Status Conference set for June 2, 2009;

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1 WHEREAS, on May 13, 2009, Defendants NEW YORK MARINE AND
2 GENERAL INSURANCE COMPANY (“New York Marine”) and CRUMP INSURANCE
3 SERVICES d.b.a. SOUTHERN MARINE & AVIATION UNDERWRITERS (“Southern Marine”)
4 filed a Motion for Summary Judgment (Documents 77-80, 82-83);

5 WHEREAS, on May 22, 2009, the parties, in compliance with the Court’s Order,
6 filed an Amended Joint Scheduling Conference Statement (Document 85);

7 WHEREAS, on May 29, 2009, the Court, in light of New York Marine and
8 Southern Marine’s pending Motion for Summary Judgment, entered a Minute Order continuing the
9 Telephonic Status Conference from June 2, 2009 to August 10, 2009 (Document 88 - Text Order
10 Entry);

11 WHEREAS, on June 11, 2009, the Court entered its Summary Judgment Decision,
12 granting New York Marine’s and Southern Marine’s Motion for Summary Judgment (Document
13 101), and entered Judgment in favor of New York Marine and Southern Marine (Document 102);

14 WHEREAS, on June 12, 2009, the Court terminated parties New York Marine and
15 Southern Marine;

16 WHEREAS, on August 10, 2009, the remaining parties, DairyAmerica; and
17 Defendants ARTHUR J. GALLAGHER & CO. (“Gallagher”) and Hartford attended the
18 Telephonic Status Conference with the Honorable Sandra M. Snyder and agreed that with the filing
19 of the Third Amended Complaint adding a bad faith cause of action against Hartford, the entire
20 scheduling of the case needed to be revised, and that DairyAmerica’s counsel shall draft a
21 stipulation, including an explanation of the reasons for another amended scheduling;

22 WHEREAS, on August 10, 2009, the Court entered Minutes from the Telephonic
23 Status Conference (Document 111 - Text Only Entry); and

24 WHEREAS, the parties, due to the filing of the Third Amended Complaint, wish to
25 set revised Scheduling Conference Dates to permit DairyAmerica’s bad faith claim against
26 Hartford to be fully investigated including, but not limited to, the reopening of non-expert
27 discovery to allow for additional written discovery and additional deposition of lay witnesses as to
28 DairyAmerica’s bad faith claim;

1 Accordingly, pursuant to the Local Rules of the United States District Court for the
2 Eastern District of California, Rules 6-144 and 83-143, Plaintiff and Defendants, by and through
3 their respective attorneys of record, STIPULATE AND AGREE on the following continued
4 Scheduling Conference Dates:

5 Non-Expert Discovery Cut-Off: December 18, 2009

6 Non-Dispositive Motion Filing Deadline: December 23, 2009

7 Non-Dispositive Hearing Deadline: January 22, 2010

8 Expert Disclosure Deadline: January 15, 2010

9 Supplemental Expert Disclosure Deadline: February 19, 2010

10 Expert Discovery Cutoff: April 23, 2010

11 **Settlement Conference:** **May 10, 2010 at 10:00am**

12 (was 5/20/09) before Judge Snyder

13 Dispositive Motion Filing Deadline: May 19, 2010

14 Dispositive Motion Hearing Deadline: June 25, 2010

15 **Pre-Trial Conference Date:** **July 15, 2010 at 8:30am**

16 (was 10/7/09) before Judge O'Neill

17 **Jury Trial Date:** **August 31, 2010 at 8:30am**

18 (was 11/16/09) before Judge O'Neill

19 All parties that have appeared in this action, have signed below, indicating their
20 agreement to this stipulation.

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22
23
24 DATED: August 14, 2009

BAKER MANOCK & JENSEN, PC

25 By: /s/ Sherrie M. Flynn
26 Charles K. Manock
27 Sherrie M. Flynn
28 Attorneys for Plaintiff
DAIRYAMERICA, INC.

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DATED: August 14, 2009

SNYDER LAW, A PROFESSIONAL CORPORATION

By: /s/ Barry Snyder
Barry Clifford Snyder
Ashley Ann Doris
Attorneys for Defendant
ARTHUR J. GALLAGHER & CO.

DATED: August 14, 2009

CANNON & NELMS

By: /s/ Robert W. Nelms
Robert W. Nelms
Attorneys for Defendant
HARTFORD CASUALTY INSURANCE COMPANY

PURSUANT TO THIS STIPULATION

IT IS SO ORDERED.

Dated: August 18, 2009

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE