

1 This ex parte application would have been by way of stipulation, as Mr. Meininger has
2 agreed in principal to the continuance but has not reviewed the contents of the stipulation.
3 As such, it was changed to provide that the application was by an ex parte application by
4 Russell D. Cook

5 The parties propose the following dates/deadlines set forth in the court's
6 Supplemental Scheduling Conference Order and based upon the following request the
7 court enter an order thereon.

8 1. Pursuant to the court's Supplemental Scheduling Conference Order
9 (Document 69 Filed 11/16/09) a pretrial scheduling conference is set for December 13,
10 2010, at 11:00 a.m. in Courtroom 3, 7th Floor, before the Honorable Oliver W. Wanger. We
11 are requesting that the Court continue the pre trial conference to early January

12 2. Local Rule 281 (Fed. R. Civ. P. 16) require Plaintiff to serve its statement
13 fourteen days prior to the pretrial conference and Defendant is to serve its statement seven
14 days prior to the conference. This would require Plaintiff to file its statement by November
15 30, 2010 while Defendant would have until December 6, 2010.

16 3. The court issued its ruling on the parties respective cross-motions for
17 summary judgment on November 2, 2010, as Document No. 118.

18 4. The court's ruling on the cross-motions for summary judgment has prompted
19 the parties to engage in additional settlement discussions in an attempt to resolve this
20 matter.

21 5. To allow time for these discussions to occur without the parties continuing to
22 incur additional attorneys fees complying with the pretrial deadlines such as preparing a
23 pretrial brief, the parties respectfully request the court permit the following extensions
24 concerning the deadline for file pretrial briefs:

- 25 A: Plaintiff shall file its pretrial brief on or before December 20, 2010;
- 26 B: Defendant shall file its pretrial brief on or before December 30, 2010.
- 27 C: That the court reschedule the pre trial conference for the first week in
28 January.

1 I declare under penalty of perjury, under the laws of the State of California, that the
2 foregoing is true and correct.

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5 Executed this 30th day of November, 2010, at Fresno, California.

6
7 /s/ RUSSELL D. COOK
8 RUSSELL D. COOK

9
10 **ORDER**

11 The Court having reviewed the forgoing ex parte application of Russell D. Cook as
12 well as his declaration setting forth the reasons for the requested extension and for good
13 cause appearing, the Court hereby ORDERS as follows:

- 14 A: Plaintiff shall file its pretrial brief on or before December 20, 2010;
15 B: Defendant shall file its pretrial brief on or before December 30, 2010.
16 C: That the court reschedule the pre trial conference for January 10, 2011
17 at 11:00 a.m.
18 D: That the court reschedule the jury trial for February 23, 2011 at 9:00
19 a.m.

20
21 IT IS SO ORDERED.

22
23 Date: 12/21/2010

24 /s/ OLIVER W. WANGER
25 UNITED STATES DISTRICT COURT JUDGE