

1 BENJAMIN B. WAGNER
 United States Attorney
 2 KELLI L. TAYLOR
 Assistant United States Attorney
 3 501 I Street, Suite 10-100
 Sacramento, CA 95814
 4 Telephone: (916) 554-2741
 Facsimile: (916) 554-2900
 5
 Attorneys for the United States of America
 6

7 IN THE UNITED STATES DISTRICT COURT
 8 EASTERN DISTRICT OF CALIFORNIA

9 ALBERT HACKETT and DALANEA)
 10 HACKETT,)
 11 Plaintiffs,)
 12 vs.)
 13 UNITED STATES OF AMERICA,)
 14 Defendants.)

No. 2:09-cv-00240 GEB JFM

STIPULATION TO MODIFY SCHEDULING ORDER AND ORDER THEREON

Complaint Filed: January 27, 2009
 Trial Date: November 9, 2010

15
 16 COME NOW Plaintiff Albert Hackett and Defendant United States of America, by and through
 17 their counsel of record, and hereby STIPULATE to modify the scheduling order to postpone the
 18 exchange of expert disclosures from a mutual exchange on January 29, 2010, to a staggered exchange
 19 wherein Plaintiff's disclosure is due on February 19, 2010 and Defendant's disclosure is due on March 5,
 20 2010. All other dates in the scheduling order will remain unaffected.

21 This is the parties' second requested postponement of expert disclosures. The first request was
 22 after the parties completed the exchange of written discovery and sought to mediate this action to
 23 determine if settlement could be reached prior to incurring the expense associated with lengthy party,
 24 percipient witness, and treating physician depositions, which should be taken prior to the exchange of
 25 expert disclosures in this case, given Plaintiff's nearly million dollar administrative claim. The parties in
 26 fact mediated this case on November 19, 2009, but were unable to reach a settlement. Settlement
 27 discussions were hampered, in part, because of a significant unanswered question regarding Plaintiff's
 28 health. Plaintiff has requested an opportunity to further evaluate this issue with his primary care

1 physician and specialist before incurring further expert expenses and litigation costs and so the parties
2 can determine whether settlement can be reached. The United States is agreeable to a slight delay in the
3 expert exchange as specified herein, especially because it will not impact the other dates in the
4 scheduling order. Specifically, discovery will still cutoff on April 7, 2010, and the scheduled pretrial
5 motion deadline, pretrial conference and trial dates will remain unchanged. Thus, the only proposed
6 changes to the scheduling order are the dates of expert exchange and all other dates and requirements of
7 the order are unaffected.

8 IT IS SO STIPULATED.

9 DATED: January 7, 2010

LAW OFFICE OF DARRIN W. MERCIER

11 By: /s/ Darrin W. Mercier
12 DARRIN W. MERCIER
13 Attorney for Plaintiffs

14 DATED: January 7, 2010

BENJAMIN B. WAGNER
United States Attorney

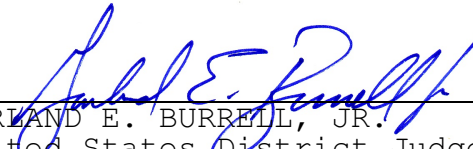
16 By: /s/ Kelli L. Taylor
17 KELLI L. TAYLOR, Assistant U.S. Attorney
18 Attorneys for the United States

18 **ORDER**

19 Pursuant to the parties' stipulation, and for good cause shown, the court hereby GRANTS
20 the request for a modification of the Scheduling Orders dated April 5, 2009 and September 18,
21 2009. Plaintiff's expert disclosure shall now be due on February 19, 2010 and Defendant's
22 expert disclosure shall be due on March 5, 2010. All other dates and conditions in the
23 scheduling order are unchanged.

24 IT IS SO ORDERED:

25 Dated: January 20, 2010

26
27 
28 GARLAND E. BURRELL, JR.
United States District Judge