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 9 OWENS HEALTHCARE-RETAIL PHARMACY,
 INC.

11 UNITED STATES DISTRICT COURT
 12 EASTERN DISTRICT OF CALIFORNIA – SACRAMENTO DIVISION

14 LISA LYNN HARVEL, on behalf of herself, all
 others similarly situated and the general public,

15 Plaintiff,

16 v.

17 OWENS HEALTHCARE-RETAIL
 18 PHARMACY, INC., a California corporation,
 and as TRUSTEE OF THE OWENS
 19 HEALTHCARE-RETAIL PHARMACY, INC.
 EMPLOYEE BENEFIT PLAN, and DOES 1-50,
 20 inclusive,

21 Defendants.

Case No. 2:09-cv-01249-JAM-GGH

**STIPULATED APPLICATION FOR
 EXTENSION OF TIME TO FILE
 RESPONSE TO AMENDED
 COMPLAINT IN VIEW OF
 SETTLEMENT**

Complaint Filed: 5/6/09
 Trial Date: None

23 Pursuant to Local Rule 6-144, Plaintiff, LISA LYNN HARVEL (“Plaintiff”),
 24 individually and on behalf of all others similarly situated, and Defendant, OWENS
 25 HEALTHCARE-RETAIL PHARMACY, INC. (“Defendant”), by and through their counsel of
 26 record, request this Court grant Defendant a 30-day extension of time within which to file its
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1 response to Plaintiff's Amended Complaint, as Defendant has provided Plaintiff's counsel a draft
2 settlement agreement which, if accepted, will conclude this litigation.

3 1. On May 6, 2009, Plaintiff filed a class action complaint against Defendant
4 alleging violations of ERISA § 510 (29 U.S.C. § 1140), ERISA § 202(a) (29 U.S.C. § 1052(a)),
5 and ERISA breach of fiduciary duty.

6 2. On July 2, 2009, the Court granted the parties' stipulation to extend
7 Defendant's time for filing a responsive pleading to July 29, 2009.

8 3. On July 29, 2009, Defendant filed its Notice of Motion and Motion to
9 Dismiss Plaintiff's Class Action Complaint under Fed. R. Civ. Proc. 12(b)(6).

10 4. Pursuant to the Court's Order Requiring a Joint Status Report, issued on
11 May 7, 2009 (Dkt. 4) and Fed. R. Civ. Proc. 26(f), the parties held a case management conference
12 on August 7, 2009, whereby the parties entered into discussions related to narrowing the scope of
13 the disputed issues in this matter. In view of those discussions, to save the parties and the Court
14 an unnecessary waste of time, expense, and resources, the parties requested the Court grant the
15 parties a 30-day extension of time within which to file their Joint Status Report, which the Court
16 granted.

17 5. On August 14, 2009, Plaintiff filed an Amended Complaint. However, in
18 view of the progress made by the parties toward a voluntary resolution of this matter, the parties
19 stipulated to continue by 30 days the deadline for Defendant to file pleadings in response to
20 Plaintiff's Amended Complaint. The Court granted that extension in an order dated August 31,
21 2009. Plaintiff and Defendant's discussions regarding the terms of a settlement have been
22 favorable and Defendant has provided Plaintiff's counsel a draft settlement agreement which
23 would conclude this litigation. As such, the parties request this Court grant Defendant an
24 additional 30-day extension of time within which to file its response to Plaintiff's Amended
25 Complaint. This would establish a new deadline of October 30, 2009, for Defendant to file
26 pleadings in response to Plaintiff's Amended Complaint.

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IT IS SO STIPULATED.

Date: September 30, 2009

THIERMAN LAW FIRM PC

By: /s/ Mark R. Thierman
Mark R. Thierman

Attorneys for Plaintiff
LISA LYNN HARVEL

Date: September 30, 2009

JACKSON LEWIS LLP

By: /s/ Jason M. Stein
René E. Thorne
Jason M. Stein
Brendan J. Begley

Attorneys for Defendant
OWENS HEALTHCARE-RETAIL
PHARMACY, INC.

ORDER

Based upon the stipulated application of the parties, and good reason appearing, IT
IS SO ORDERED.

DATED: September 30, 2009

/s/ John A. Mendez
HONORABLE JOHN A. MENDEZ