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Vivian Lily

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8 UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF CALIFORNIA
9 SACRAMENTO DIVISION

10 In re	)	NO. 2:15-cv-00410-WBS-DAD
11 VIVIAN LILY,)	
12 Debtor.	)	Bankruptcy Court Nos.
	)	Chapter 7 No. 12-36999-B-7
)	
13 DAVID R. OLICK,	)	Adversary Proceeding
14 Plaintiff,	)	No. 12-02717-B
)	
15 v.	)	JOINT APPLICATION TO CONTINUE
	)	TRIAL BASED ON STIPULATION OF
16 VIVIAN LILY,	)	THE PARTIES
17 Defendant.	)	Date: Trial Date November 1, 2016
	)	Time: 9:00 a.m.
)	
	)	The Honorable William B. Shubb
	)	Courtroom: 5
)	
)	
)	

22 The parties, Plaintiff David Olick (hereinafter, Olick) and Defendant Vivian Lily
23 (hereinafter, Lily) by and through their respective counsel, jointly apply for a continuance of
24 the trial of this matter, currently set for November 1, 2016 respectfully request that the trial date
25 be vacated, and the Court set the matter on calendar for a new trial date anytime subsequent
26 to February 15, 2017.

27 The continuance is being sought because of ongoing serious health problems of Vivian
28 Lily, which may require surgical intervention, to enable the parties to have an opportunity to

1 pursue active settlement discussions and to enable David R. Olick to complete a jury trial in
2 the San Mateo Superior Court (No. PRO124018) scheduled to begin on October 24, 2016 and
3 scheduled to proceed for at least a month.

4 This case is one of two involving Olick and Lily, the second being their dissolution
5 action, pending in Solano County, Case No. FFL 114985 (hereinafter, the Dissolution
6 Case.) No trial date has been set in that action. There are overlapping issues in these cases
7 and Olick and Lily are interested in reaching a global settlement of both this case and the
8 Dissolution Case. Settlement has been facilitated by the home (whose title is contested)
9 having its market value restored and one mortgage having been forgiven.

10 The parties have been engaged in serious negotiations, which were restarted recently in
11 light of this development. There is not adequate time to conclude these negotiations and, it is
12 hoped reach a global settlement, given the current trial date and the pretrial preparation
13 required.

14 The ability to conclude these negotiations before having to switch focus to trial
15 preparation based on the current trial date is complicated by health problems of Lily. As set
16 forth in the Declaration of Laura Fox, filed herewith, Lily had two major surgeries in 2015 and in
17 2016. The goal of the surgeries was to curtail the frequent infections, which Lily experiences,
18 which have resulted in sepsis on more than one occasion. Unfortunately, she still suffers from
19 frequent infections.

20 Lily now faces possible additional surgical procedures. She has previously had an
21 angiogram and angioplasty. Recently she has been experiencing extreme chest pain and is
22 scheduled for testing on September 30, which may be followed by an angiogram or
23 angioplasty or other intervention to address her cardiac issues. Lily's ability to participate
24 directly in settlement discussions over the next few weeks is doubtful (and even her ability to
25 appear at trial) as she may need weeks or months to recover from procedures she may
26 undergo.

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1 As set forth in the Declaration of Olick, who is both a party and co-counsel in this case,
2 he has a large and complicated jury trial set for October 24, 2016 in San Mateo County
3 Superior Court which is anticipated to go well beyond November 1, 2016.

4 It is hoped that with additional time the parties can reach an overall settlement of the
5 litigation between them, thereby avoiding the expenditure of judicial resources and the costs
6 associated with trials in two forums. If the parties are unable to reach a negotiated settlement
7 on their own, they anticipate asking the Court to refer this matter to a Magistrate Judge for a
8 settlement conference.

9 The parties respectfully ask that the trial date be vacated, and that the case be set for
10 trial any time subsequent to, February 15, 2017 which is acceptable to both parties and their
11 counsel, with all dates set in the Final Pretrial Order adjusted to the new trial date.

12
13 **STIPULATION**

14 Lily and Olick stipulate as follows:

15 1. In Order that settlement discussions may be pursued effectively, and that medical
16 problems for Vivian Lily may be resolved and a conflicting trial may be conducted by David R.
17 Olick that the trial date of this matter currently set for November 1, 2016, be vacated.

18 2. That the Court set the case for trial after February 15, 2017 on a date convenient to
19 the Court.

20 3. That all dates set in the Final Pretrial Order be adjusted to correspond to
21 the new trial date.

22
23 DATED: September 22, 2016

/s/ David R.Olick
DAVID R. OLICK

Attorney for Plaintiff

24
25 DATED: September 22, 2016

/s/William Murray
WILLIAM MURRAY

Attorney for Defendant
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ORDER

Based on the Stipulation of the Parties, and GOOD CAUSE APPEARING:

1. The trial date in this matter, November 1, 2016, is vacated.
2. The case is continued for trial on Tuesday, February 14, 2017 at 9:00 a.m.
3. Deadlines set in the Final Pretrial Order will be adjusted based on the new trial date.

IT IS SO ORDERED.

Dated: September 28, 2016



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

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