

1 YOUNG, MINNEY & CORR, LLP
 2 PAUL C. MINNEY, SBN 166989
 3 WILLIAM J. TRINKLE, SBN 102280
 4 WENDY A. WALKER, SBN 295877
 5 655 University Ave. Suite 150
 Sacramento, CA 95825
 Telephone: (916) 646-1400
 Facsimile: (916) 646-1300

6 *Attorneys for Defendant,*
 7 HUMPHREYS UNIVERSITY

8 UNITED STATES DISTRICT COURT
 9 EASTERN DISTRICT OF CALIFORNIA

11	LEANNA MALAIVANH,)	NO.: 2:16-CV-01081-KJM-GGH
12	Plaintiff,)	
13	v.)	STIPULATION AND ORDER
14	HUMPHREYS COLLEGE; JESSE DE LA)	EXTENDING TIME FOR
15	CRUZ; JDS CONSULTATION, INC.; and)	DISPOSITIVE MOTIONS TO BE
16	DOES 1 through 100, inclusive,)	HEARD
17	Defendants.)	Complaint filed: May 20, 2016
)	Amended Complaint filed: April 26, 2017

18
 19 All parties hereby stipulate and request that the Court enter an Order extending the time
 20 for the parties to file dispositive motions by approximately 60 days. Good cause exists for the
 21 request:

22 1. The parties last appeared in this Court on January 13, 2017, and since that time
 23 the parties exchanged initial disclosures. Thereafter, the parties stipulated and were ordered to
 24 participate in the Voluntary Dispute Resolution Program (VDRP) on February 8, 2017, in an
 25 effort to seek to resolve the action.

26 2. The Court granted Defendants' Motions to Dismiss with leave to amend on
 27 April 12, Plaintiff filed her Amended Complaint on April 26, and Defendants' Answers were
 28 filed on May 10, 2017.

1 3. The date currently set by the Court’s Scheduling Order is for all dispositive
2 motions to be heard by August 11, 2017. If that date is not extended, all dispositive motions
3 would need to be filed by July 14, per the local rules of the Eastern District of California.

4 4. The parties are seeking extra time to file dispositive motions based on the
5 following:

6 a. The parties attempted to mediate through the VDRP, but per the letter from
7 Plaintiff’s counsel submitted to the Court’s VDRP coordinator on May 15
8 (attached hereto as Exhibit A), the neutral selected by the parties informed
9 he would charge \$975 per hour for the mediation. This was after the
10 parties’ negotiating at length to select the neutral, and working on mutually
11 agreeable dates for the VDRP mediation. However, due to the high cost
12 demanded by the VDRP neutral, the parties agreed to do a private
13 mediation instead. The selection of another neutral and potential dates is
14 required. The parties are currently in the process of selecting a new
15 neutral and arranging for a date for the private mediation. The parties seek
16 to complete the mediation prior to the need for drafting and filing
17 dispositive motions. As a result of the difficulties with the VDRP
18 mediation, the parties have been impaired in moving this case forward.

19 b. As set forth in the joint status report filed with the Court on January 9,
20 2017, the parties agreed to complete all discovery necessary to a
21 dispositive motion prior to any such motion being filed. On May 9,
22 Defendant Humphreys noticed Plaintiff’s deposition by oral examination.
23 This deposition is necessary for Humphreys’ dispositive motion. The
24 deposition was noticed for May 31, but Plaintiff’s counsel is unavailable.
25 The parties are currently working on finding the soonest mutually
26 agreeable date for this deposition.

27 c. On May 10, 2017, in his Answer, Defendant Jesse De La Cruz filed a
28 counterclaim against Plaintiff Leanna Malai vanh asserting a single cause

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of action for unlawful audio recording pursuant to California Penal Code section 632. This is a new cause of action in this litigation. Ms. Malaivanh contends that this counterclaim lacks merit and that she is entitled to complete affirmative defenses, including but not limited to the expiration of the statute of limitations. These new issues will require additional discovery, and Ms. Malaivanh anticipates that the discovery deadline may need to be continued in this case. However, for the time being, all parties including Ms. Malaivanh agree that the dispositive motion deadline should be continued.

5. The parties herein agree to the extension of the date for dispositive motions to be heard by approximately 60 days, until October 6, 2017. No other date is extended.

6. The following dates contained in the Court’s Scheduling Order shall remain the same, as follows:

- a. Designation of expert witnesses due by November 2, 2017;
- b. Rebuttal of expert witness disclosures due by December 4, 2017;
- c. Final discovery cutoff date January 24, 2018;
- d. The parties’ joint pretrial conference statement due by February 16, 2018;
- e. The final pretrial conference is set for March 9, 2018 at 10:00 a.m.;
- f. Trial briefs are due by March 26, 2018; and
- g. The jury trial is set to start on April 9, 2018 at 9:00 a.m.

7. There have been no prior requests for extension of time for dispositive motions to be heard.

Respectfully Submitted,

Dated: May 24, 2017

MASTAGNI HOLSTEDT, APC

By: /s/ Grant A. Winter
GRANT A. WINTER
Attorney for Plaintiff
LEANNA MALAIVANH

(Signatures continue)

