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9 Attorneys for Defendant Harmony Home Care, Inc.

10 UNITED STATES DISTRICT COURT
 11 EASTERN DISTRICT OF CALIFORNIA

12
 13 TYRONE DOUTHERD,
 14 Plaintiff,
 15 v.
 16 DORIS MARIE MONTESDEOCA,
 estate of LUCILLE J. SMITH,
 17 deceased, UNITED PARCEL
 SERVICE, INC., LIBERTY MUTUAL
 18 INSURANCE COMPANY, and DOES
 1-30,
 19 Defendant.
 20

No. 2:17-cv-02225-MCE-EFB

**STIPULATION TO EXTEND DISCOVERY
 CUT-OFF DATES AND ORDER**

Complaint Filed: August 25, 2018
Judge: Hon. Morrison C. England

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I.

INTRODUCTION

The parties, Plaintiff Tyrone Doutherd, (“Plaintiff”) and Defendants Harmony Home Care, Inc., Estate of Lucille J. Smith, UPS Ground Freight, Inc. and Liberty Mutual Insurance Company, (collectively “Defendants”), through their respective attorneys of record, hereby jointly stipulate to an extension of the currently scheduled discovery deadlines as set forth below.

II.

RECITALS/GROUNDS FOR RELIEF

Pursuant to Rule 16, a party may seek modification of a scheduling order, including modification of a discovery cut-off date, “only for good cause and with a judge’s consent.” Fed. R. Civ. P. 16(b)(4). “Good cause” exists only when a scheduling deadline “cannot reasonably be met despite the diligence of the party seeking the extension.” Schafferner v. Crown Equipment Corporation, No. C09-00284 SBA, 2011 WL 6303408, at *2 (N.D. Cal. Dec. 16, 2011) (citing Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 609, (9th Cir. 1992). A party may establish good cause by showing:

- (1) that [he or she] was diligent in assisting the court in creating a workable Rule 16 order;
- (2) that [he or she] noncompliance with a Rule 16 deadline occurred or will occur, notwithstanding [his or her] diligent efforts to comply, because of the development of matters which could not have been reasonable foreseen or anticipated at the time of the Rule 16 scheduling conference; and
- (3) that [he or she] was diligent in seeking amendment of the Rule 16 order, once it became apparent that he or she could not comply with the order.

Hood v. Hartford Life & Accident Inc., Co., 567 F.Supp.2d 1221, 1224 (E.D. Cal. 2008) (citation omitted).

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WHEREAS the current deadline to complete all non-expert discovery is October

1 25, 2018.

2 WHEREAS Defendants requested that Plaintiff stipulate to extend the written
3 discovery cut-off deadline because the Defendant, Harmony Home Care., Inc., believes
4 that additional time is needed to conclude the parties' discovery and reach a good faith
5 settlement.

6 AND WHEREAS, THE PARTIES STIPULATE AND AGREE TO THE
7 FOLLOWING:

8 1. To extend the non-expert discovery cut-off deadline up to and including
9 December 14, 2018.

10 2. To extend the expert discovery cut-off deadline up to and including January
11 31, 2019.

12 **SO STIPULATED.**

13
14 Dated: October 5, 2018

**BERMAN, BERMAN, BERMAN,
SCHNEIDER & LOWARY, LLP**

/s/ Amanda F. Riley
Amanda F. Riley
Attorney for Defendant
Harmony Home Care, Inc.

18
19 Dated: October 5, 2018

POWERS MILLER

/s/ Eric F. Della Santa
Eric F. Della Santa
R. James Miller
Attorney for Defendants
Estate of Lucille J. Smith

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27 Signatures continue on the next page
Dated: October 5, 2018

HUNTON & WILLIAMS, LP

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/s/ Emily Burkhardt Vicente
Emily Burkhardt Vicente
D. Andrew Quigley
Attorney for Defendant
United Parcel Service, Inc.

Dated: October 5, 2018

MCCURDY & MILLER, LLP

/s/ Kevin G. McCurdy
Kevin G. McCurdy
Robert J. Scott, Jr.
Attorney for Defendant
Liberty Mutual Insurance Co.

Dated: October 5, 2018

LAW OFFICES OF ELLEN DOVE

/s/ Ellen C. Dover
Ellen C. Dove
Attorney for Plaintiff
Tyrone Doutherd

SIGNATURE CERTIFICATION

1 Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies and
2 Procedures Manual, I hereby certify that the content of this document is acceptable to all
3 parties' respective legal counsels and that I have obtained their authorizations to affix their
4 electronic signatures to this document.

5 Dated: October 5, 2018

**BERMAN, BERMAN, BERMAN,
SCHNEIDER & LOWARY, LLP**

7 /s/ Amanda F. Riley
8 Amanda F. Riley
9 Attorney for Defendant
10 Harmony Home Care, Inc.

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ORDER

The Stipulation of the parties is accepted and the deadline for discovery of non-expert witnesses is extended up to and including **December 14, 2018**. The deadline for expert discovery is extended up to and including **January 31, 2019**.

IT IS SO ORDERED.

Dated: October 10, 2018


MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE

1 **CERTIFICATE OF SERVICE**

2 I am a citizen of the United States. My business address is 2390 Professional
3 Drive, Roseville, California 95661. I am employed in the county of Placer where this
4 service occurs. I am over the age of 18 years, and not a party to the within cause. I am
5 readily familiar with my employer’s normal business practice for collection and processing
6 of correspondence for mailing with the U.S. Postal Service, and that practice is that
7 correspondence id deposited with the U.S. Postal Service the same date as the day of
8 collection in the ordinary course of business.

9 On the date set forth below, following ordinary business practice, I served a true
10 copy of the foregoing document(s) described as:

11 **[SEE ATTACHED SERVICE LIST]**

12 **(BY MAIL)** In accordance with the regular mail collection and processing practices
13 of this business office, with which I am familiar, by means of which mail is deposited with
14 the United States Postal Service at Los Angeles, California that same day in the ordinary
15 course of business, I deposited such sealed envelope for collection and mailing on this
16 same date following ordinary business practices.

17 X **(BY ELECTRONIC FILING AND SERVICE) with the Clerk of the Court using the**
18 **CM/ECF System:** in accordance with the F.R.C.P. 5(b)(2)(D) and the above Court’s Local
19 Rules, I electronically filed the foregoing with the Clerk of the Court for the United States
20 District Court by using the CM/EMF system. Participants in the case who are registered
21 CM/ECF users will be served by the CM/ECF system.

22 X **(Federal)** I declare under the penalty of perjury under the laws of the United States
23 that the above is true and correct.

24 **(BY MAIL)** Certified U.S. Mail, deposited with the U.S. Postal Service at Riverside,
25 California that same day in the ordinary course of business I deposited such sealed
26 envelope for collection & mailing on this same date following ordinary business practices,
27 with a certified, return receipt requested.

28 **(BY ELECTRONIC MAIL)** Based on the parties’ agreement to accept service by
electronic transmission, I sent the above document(s) to the person(s) at the electronic
address(es) noted in the attached service list from my electronic service address which is
lcarmichael@b3law.com.

 (BY OVERNIGHT MAIL)
 I caused such envelope to be delivered by hand to the office of the
addressee, either by overnight delivery via Federal Express or Overnite
Express.

STATE
 X I declare under penalty of perjury under the laws of the State of California that the
above is true and correct.

Executed on October 5, 2018, at Roseville, California.

Lori Carmichael
Name

/s/ Lori Carmichael
Signature

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Service List

Doutherd v. Doris Marie Montesdeoca, et al
United States District Court for the Eastern District of California
Case No. 2:17-cv-02225 MCE-EFB

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