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Attorneys for Defendant
7 NATIONAL RAILROAD
PASSENGER CORPORATION
8

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11

12 MICHAEL TERRELL,
13 Plaintiff,
14 v.
15 NATIONAL RAILROAD PASSENGER
CORPORATION,
16 Defendant.
17

Case No. 3:07-cv-05236 BZ

**STIPULATION AND [PROPOSED]
ORDER TO CONTINUE DISCOVERY
DEADLINE**

Action Filed: October 12, 2007

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STIPULATION

The parties hereby stipulate to continue the following deadlines:

- Non-expert discovery cut off will be continued to 12/15/08
- Expert disclosures deadline will be continued to 12/15/08
- Supplemental expert disclosure deadline will be continued to 1/5/09
- Expert discovery cutoff will be continued to 1/15/09

The parties are close to settling the case and would like to continue the above deadlines in order to allow more time for settlement discussions. This stipulation will not change other dates in the *Order Scheduling Trial and Pretrial Matters*, including the trial dated of 4/21/09.

DATED: November 14, 2008

PROVOST UMPHREY

By: _____ /s/ Michael H. Hennen
MICHAEL H. HENNEN
Attorneys for Plaintiff
MICHAEL TERRELL

DATED: November 14, 2008

LOMBARDI, LOPER & CONANT, LLP

By: _____ /s/ LIZA SIU MENDOZA
LIZA SIU MENDOZA
Attorneys for Defendant
NATIONAL RAILROAD
PASSENGER CORPORATION

IT IS SO ORDERED:

Dated: November 14, 2008

By:  _____
UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

Michael Terrell v. National Railroad Passenger Corporation

United States District Court, Northern District, San Francisco Case No. 3:07-cv-05236 BZ

I, Noelle Duncan, do hereby declare:

I am a citizen of the United States, over 18 years of age and not a party to the within action. I am employed in the County of Alameda; my business address is 1999 Harrison Street, Suite 2600, Oakland, CA 94612.

On November 14, 2008, I served the within:

STIPULATION AND [PROPOSED] ORDER TO CONTINUE DISCOVERY DEADLINE

on all parties in this action, as addressed below, by causing a true copy thereof to be distributed as follows:

Lyle C. Cavin, Jr.
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Attorneys for Plaintiff
MICHAEL TERRELL

By United States Mail: I enclosed the document in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope/package for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing documents for mailing. On the same day that the document is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing an affidavit.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Oakland, California.

By Fax Transmission: Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed above. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

By Overnight Delivery: I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed above. I place the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

By Personal Service: I personally delivered the documents to the persons at the addresses listed above. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with the receptionist or an individual in charge of the office. (2) For a party, delivery was made to

1 the party or by leaving the documents at the party's residence with some person not less than 18 years of age
2 between the hours of eight in the morning and six in the evening.

3 **By Messenger Service:** I served the documents by placing them in an envelope or package
4 addressed to the persons at the addresses listed above and providing them to a professional messenger
5 service for service. *(A declaration by the messenger must accompany this Proof of Service.)*

6 **By E-Mail or Electronic Transmission:** Based on a court order or an agreement of the
7 parties to accept service by email or electronic transmission, I caused the documents to be sent to the
8 persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the
9 transmission, any electronic message or other indication that the transmission was unsuccessful.

10 I declare under penalty of perjury under the laws of the United States of America that the
11 foregoing is true and correct.

12 Executed on November 14, 2008, at Oakland, California.

13 _____
14 /s/ Noelle Duncan
15 Noelle Duncan