

1 LINDA BALDWIN JONES, Bar No. 178922  
 KRISTINA M. ZINNEN, Bar No. 245346  
 2 WEINBERG, ROGER & ROSENFELD  
 A Professional Corporation  
 3 1001 Marina Village Parkway, Suite 200  
 Alameda, California 94501-1091  
 4 Telephone 510.337.1001  
 Fax 510.337.1023  
 5 E-mail: courtnotices@unioncounsel.net

6 Attorneys for Plaintiffs

7  
 8 KENNETH E. JOHNSON, Bar No. 115814  
 kjohnson@tocounsel.com  
 THEODORA ORINGHER MILLER & RICHMAN PC  
 9 A Professional Corporation  
 2029 Century Park East, Sixth Floor  
 10 Los Angeles, California 90067-2907  
 Telephone 310.557.2009  
 11 Fax 310.551.0283

12 Attorneys for Defendants

13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 15 SAN FRANCISCO DIVISION

16 PAUL BENSI, BART FLORENCE, JERRY )  
 KALMAR, and LYLE SETTER, in )  
 17 their capacities as Trustees of the )  
 STATIONARY ENGINEERS LOCAL 39 )  
 18 PENSION TRUST FUND and STATIONARY )  
 ENGINEERS LOCAL 39 HEALTH AND )  
 19 WELFARE FUND, )

20 Plaintiffs, )

21 v. )

22 O'CONNOR HOSPITAL, a California )  
 23 Corporation; DAUGHTERS OF CHARITY )  
 HEALTH SYSTEM, a California Corporation, )  
 24 )

25 Defendants. )  
 \_\_\_\_\_ )

Case No. C 08-4135 (MMC)

**STIPULATION AND ~~[PROPOSED]~~  
 ORDER CONTINUING INITIAL  
 CASE MANAGEMENT  
 CONFERENCE AND RELATED  
 DEADLINES**

**[L.R. 3-12(a)]**

Judge: Honorable Maxine M. Chesney  
 Ctrm: 7, 19th Floor

26 ///

27 ///

28 ///

1 Plaintiffs Paul Bensi, Bart Florence, Jerry Kalmar, and Lyle Setter were and are Trustees  
2 and together comprise the Board of Trustees of the Plaintiff Stationary Engineers Local 39 Pension  
3 Trust Fund and Stationary Engineers Local 39 Health & Welfare Fund (“Plaintiffs”), and  
4 Defendants O’Connor Hospital, a California Corporation and Daughters Of Charity Health System,  
5 a California Corporation (“Defendants”), through their respective counsel, hereby stipulate to and  
6 request that the Court order that the Initial Case Management Conference and related deadlines be  
7 continued for a period of 60 days.

8 1. Pursuant to the Court’s Order Setting Initial Case Management Conference and  
9 ADR Deadlines, the Initial Case Management Conference in this action was set for December 5,  
10 2008 at 10:30 a.m. Pursuant to the stipulation of the parties, on November 25, 2008, the Court  
11 issued an Order continuing the Initial Case Management Conference to January 30, 2009 in order  
12 to afford the parties additional time to explore a possible resolution of this action and review  
13 information exchanged. The Court also continued the Initial Case Management Conference in the  
14 related case of *Paul Bensi, et al. v. Seton Medical Center, et al.*, C 08-4134 MMC to the same date.  
15 A Stipulation and [Proposed] Order Continuing Initial Case Management Conference and Related  
16 Deadlines in *Bensi, et al. v. Seton Medical Center, et al.* has been filed concurrently with this  
17 Stipulation and [Proposed] Order.

18 2. At the time the parties requested the most recent continuance of the Initial Case  
19 Management Conference (to January 30, 2009), the parties anticipated that they might be able to  
20 conclude their review of the information exchanged before the compliance dates for case  
21 management-related activities. After Plaintiffs reviewed the additional information, Plaintiffs  
22 prepared a draft audit report detailing their findings. On January 21, 2009, Plaintiffs provided  
23 Defendants with a copy of Plaintiffs’ draft audit report for Defendants’ review. Defendant and  
24 their counsel need time to review Plaintiffs’ audit report.

25 3. The parties agree that additional time is needed to permit the further review of the  
26 newly exchanged information and exploration of a resolution of this action. Counsel for the parties  
27 have discussed a possible continuance of the Initial Case Management Conference for a period of  
28 30 to 45 days. The parties believe that an extension of the conference date will afford them the

1 time to review the information exchanged without the necessity of further litigation time and  
2 expense.

3 4. As noted above, there has been one continuation of the Initial Case Management  
4 Conference and related case management activities. The parties expect that the requested  
5 extension of the date for the Initial Case Management Conference will have no adverse effect on  
6 the schedule for the case. No trial date or other deadlines have yet been set. The requested  
7 extension may facilitate the resolution of the parties' dispute, and will at a minimum enable the  
8 parties to narrow the issues that may streamline case management.

9 Therefore, Plaintiff and Defendants, through their respective counsel, stipulate and agree as  
10 follows:

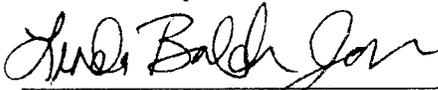
11 1. The Initial Case Management Conference date of January 30, 2009 at 10:30 a.m and  
12 related deadlines are vacated.

13 2. The Initial Case Management Conference date is extended to  
14 \_\_\_\_\_ at 10:30 a.m.

15 3. Related deadlines for ADR and case management activities are extended  
16 accordingly, as provided in the Court's Order Setting Initial Case Management Conference and  
17 ADR Deadlines.

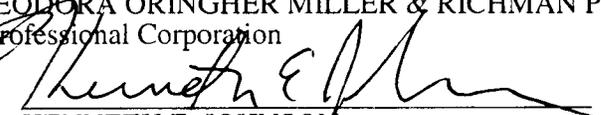
18 Dated: January 23, 2009

19 WEINBERG, ROGER & ROSENFELD  
20 A Professional Corporation

21 By:   
22 LINDA BALDWIN JONES  
23 Attorneys for Plaintiffs

24 Dated: January 23 2009

25 THEODORA ORINGHER MILLER & RICHMAN PC  
26 A Professional Corporation

27 By:   
28 KENNETH E. JOHNSON  
Attorneys for Defendants

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS ORDERED.

1. The Initial Case Management Conference date of January 30, 2009 at 10:30 a.m. and related deadlines are vacated.

2. The Initial Case Management Conference date is extended to March 27, 2009 at 10:30 a.m.

3. Related deadlines for ADR and case management activities are extended accordingly, as provided in the Court's Order Setting Initial Case Management Conference and ADR Deadlines.

Dated: January 26, 2009

  
\_\_\_\_\_  
THE HONORABLE MAXINE M. CHESNEY  
UNITED STATES DISTRICT JUDGE

119080/518103