

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

10 Attorneys for Plaintiffs

11 KENNETH E. JOHNSON, Bar No. 115814
 12 kjohnson@tocounsel.com
 13 THEODORA ORINGHER MILLER & RICHMAN PC
 14 2029 Century Park East, Sixth Floor
 15 Los Angeles, California 90067-2907
 16 Telephone 310.557.2009
 17 Fax 310.551.0283

18 Attorneys for Defendants

19 UNITED STATES DISTRICT COURT
 20 NORTHERN DISTRICT OF CALIFORNIA
 21 SAN FRANCISCO DIVISION

22 PAUL BENSI, BART FLORENCE, JERRY)
 23 KALMAR, and LYLE SETTER, in)
 24 their capacities as Trustees of the)
 25 STATIONARY ENGINEERS LOCAL 39)
 26 PENSION TRUST FUND and STATIONARY)
 27 ENGINEERS LOCAL 39 HEALTH AND)
 28 WELFARE FUND,)

Case No. C 08-4135 (MMC)

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

Plaintiffs,

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

v.

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

29 O'CONNOR HOSPITAL, a California)
 30 Corporation; DAUGHTERS OF CHARITY)
 31 HEALTH SYSTEM, a California Corporation,)

Defendants.

731782.1/80961.05002

WEINBERG, ROGER &
 ROSENFELD
 A Professional Corporation
 1001 Marina Village Parkway
 Suite 200
 Alameda, CA 94501-1091
 510.337.1001

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

CASE NO. C 08-4135 (MMC)

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

Plaintiffs Paul Bensi, Bart Florence, Jerry Kalmar, and Lyle Setter were and are Trustees and together comprise the Board of Trustees of the Plaintiff Stationary Engineers Local 39 Pension Trust Fund and Stationary Engineers Local 39 Health & Welfare Fund ("Plaintiffs"), and Defendants O'Connor Hospital and Daughters Of Charity Health System ("Defendants"), through their respective counsel, hereby stipulate to and request that the Court order that the Initial Case Management Conference and related deadlines be continued for a period of 30 to 45 days.

1. Pursuant to the Court's Order Setting Initial Case Management Conference and ADR Deadlines, the Initial Case Management Conference in this action was set for December 5, 2008 at 10:30 a.m. Pursuant to two successive stipulations of the parties, this Court previously issued Orders continuing the Initial Case Management Conference in order to afford the parties additional time to explore a possible resolution of this action and review information exchanged. The Initial Case Management Conference is now scheduled for March 27, 2009. The Court also continued the Initial Case Management Conference in related case *Paul Bensi, et al. v. Seton Medical Center, et al.*, C 08-4134 MMC to the same date. A Stipulation and [Proposed] Order Continuing Initial Case Management Conference and Related Deadlines in *Bensi v. Seton Medical Center* has been filed concurrently with this Stipulation and [Proposed] Order.

2. As stated in the previous stipulation for a continuance, Plaintiffs have provided Defendant with a draft audit report, summarizing their preliminary findings. Defendant and its counsel recently completed their review of the audit report, and provided Plaintiffs with its preliminary response on March 9, 2009. Defendant intends to provide Plaintiffs with additional information to confirm their response. Plaintiffs and their counsel will need time to review Defendant's response to the draft audit report. The parties anticipate that this mutual and cooperative exchange of information will facilitate the likelihood of settlement, or at the very least assist in identifying any factual or legal issues that require resolution by the Court.

1 3. The parties agree that additional time is needed to permit the further review
2 of the newly exchanged information and exploration of a resolution of this action. Counsel believe
3 that an extension of the Initial Case Management Conference date for a period of 30 to 45 days will
4 afford them the time to review the information exchanged without the necessity of further litigation
5 time and expense.

6 4. As noted above, there have been two continuations of the Initial Case
7 Management Conference and related case management activities in this case. The parties expect
8 that the requested extension of the date for the Initial Case Management Conference will have no
9 adverse effect on the schedule for the case. No trial date or other deadlines have yet been set. The
10 requested extension may facilitate the resolution of the parties' dispute, and will at a minimum
11 enable the parties to exchange information about their respective positions that may streamline
12 case management.

13 Therefore, Plaintiff and Defendants, through their respective counsel, stipulate and agree as
14 follows:

15 1. The Initial Case Management Conference date of March 27, 2009 at 10:30
16 a.m and related deadlines are vacated.

17 2. The Initial Case Management Conference date is extended to
18 _____ at 10:30 a.m.

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

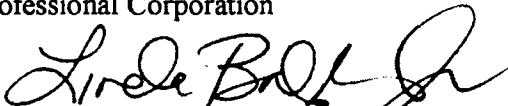
22
23
24
25
26
27

28 731782.1/80961.05002

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

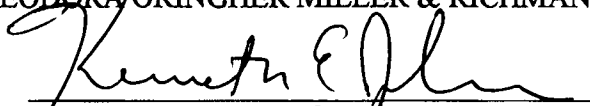
Dated: March 20, 2009

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: 
LINDA BALDWIN JONES
Attorneys for Plaintiffs

Dated: March 20, 2009

THEODORA ORINGHER MILLER & RICHMAN PC

By: 
KENNETH E. JOHNSON
Attorneys for Defendants

~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED that the Initial Case Management
Conference date is extended to May 8, 2009, at 10:30 a.m.

Dated: March 23, 2009


THE HONORABLE MAXINE M. CHENEY
UNITED STATES DISTRICT JUDGE

119081/513063

731782.1/80961.05002