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

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

20 Plaintiffs,)

21 v.)

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

25 Defendants.)
 26)

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

746725.1/80961.05002

1 Plaintiffs Paul Bensi, Bart Florence, Jerry Kalmar, and Lyle Setter were and are
2 Trustees and together comprise the Board of Trustees of the Plaintiff Stationary Engineers Local
3 39 Pension Trust Fund and Stationary Engineers Local 39 Health & Welfare Fund (“Plaintiffs”),
4 and Defendants O’Connor Hospital and Daughters Of Charity Health System (“Defendants”),
5 through their respective counsel, hereby stipulate to and request that the Court order that the Initial
6 Case Management Conference and related deadlines be continued for a period of 45 days.
7

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

18 2. As stated in the previous stipulation for a continuance, Defendants provided
19 additional business records to the Plaintiffs after this lawsuit was filed, following which Plaintiffs
20 completed and provided Defendant with a draft audit report, summarizing their preliminary
21 findings. Following Defendants' review of the audit report, Defendants provided Plaintiffs and
22 their counsel with its preliminary response and with copies of additional documents to confirm
23 their response. Counsel for Plaintiffs and Defendants conferred on April 17, 2009, and made
24 progress in narrowing the factual and legal issues raised by the draft audit report, and in defining
25 the additional documentation required to confirm Defendants' responses to certain issues.
26 Defendants' counsel provided Plaintiff's counsel with additional documents on April 28, 2009, and
27

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1 expects to provide additional documents to Plaintiff's counsel within the coming week. Plaintiffs
2 and their counsel will need time to review and analyze these additional materials. The parties
3 anticipate that this mutual and cooperative exchange of information will facilitate the likelihood of
4 settlement, or at the very least assist in identifying any factual or legal issues that require resolution
5 by the Court.

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

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

18 Therefore, Plaintiff and Defendants, through their respective counsel, stipulate and agree as
19 follows:

20 1. The Initial Case Management Conference date of May 8, 2009 at 10:30 a.m
21 and related deadlines are vacated.

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

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

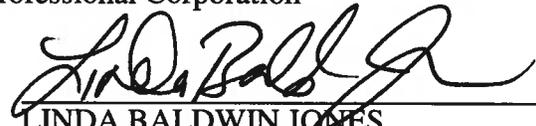
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Dated: April 29, 2009

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: 
LINDA BALDWIN JONES
Attorneys for Plaintiffs

Dated: April 29, 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 _____, at 10:30 a.m.

Dated: _____

THE HONORABLE MAXINE M. CHESNEY
UNITED STATES DISTRICT JUDGE

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Dated: April 29, 2009

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

By: _____
LINDA BALDWIN JONES
Attorneys for Plaintiffs

Dated: April 29, 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 June 26, 2009, at 10:30 a.m.

Dated: April 30, 2009


THE HONORABLE MAXINE M. CHESNEY
UNITED STATES DISTRICT JUDGE

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