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6 Transcription Communications Corporation

7  
8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11 TRANSCRIPTION COMMUNICATIONS )  
CORPORATION, a California corporation, )  
12 )  
Plaintiff, )  
13 )  
v. )  
14 )  
JOHN MUIR HEALTH, dba JOHN MUIR )  
15 MEDICAL CENTER and MOUNT )  
DIABLO MEDICAL CENTER, a California )  
16 corporation, et al., )  
Defendants. )

Case No. 08-CV-04418 THE

**STIPULATION REGARDING  
CONTINUING HEARING DATE ON  
DEFENDANTS' MOTIONS TO DISMISS  
AND CASE MANAGEMENT  
CONFERENCE; ORDER THEREON**

Complaint Filed: July 7, 2008  
Removal Filed: September 22, 2008

Judge: Hon Thelton E. Henderson  
Courtroom: 12

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19 Plaintiff Transcription Communications Corporation ("TCC" or "Plaintiff"),  
20 defendant John Muir Health ("JMH"), and defendants Focus Enterprises Limited ("Focus"),  
21 eScription, Inc. ("eScription"), and Nuance Communications, Inc. ("Nuance"), by and through  
22 their respective counsel, hereby enter into this "Stipulation Regarding Continuing Hearing Date  
23 on Defendants' Motions to Dismiss and Case Management Conference" with reference to the  
24 following:

25 **RECITALS**

26 1. On September 22, 2008, this Court, by its Order Setting Initial Case  
27 Management Conference and ADR Deadlines, set the initial Case Management Conference in  
28 this matter for January 6, 2009.

1           2.     On September 24, 2008, this Court filed a Clerk's Notice Rescheduling  
2 Hearing, rescheduling the initial Case Management Conference in this matter for January 5,  
3 2009.

4           3.     On October 16, 2008, Plaintiff filed a First Amended Complaint for  
5 Breach of Contract, Intentional Interference With Contractual Relations, Intentional Interference  
6 With Prospective Economic Advantage, and Violation of 18 U.S.C. Section 1962(c) (RICO).

7           4.     On October 31, 2008, defendant John Muir filed a Motion to Dismiss  
8 Plaintiff's First Amended Complaint. The hearing on this Motion to Dismiss was initially set for  
9 December 8, 2008.

10          5.     On November 3, 2008, defendants Focus, eScription, and Nuance filed an  
11 Ex Parte Application for Extension of Time to Respond to First Amended Complaint and to Set  
12 Briefing Schedule ("Ex Parte Application"), accompanied by a Stipulation to Briefing Schedule  
13 for Defendants' Motion to Dismiss Plaintiff's First Amended Complaint. The Ex Parte  
14 Application requested a briefing schedule for defendants Focus, eScription, and Nuance's motion  
15 to dismiss that would require defendants' motion to dismiss to be filed on or before December 1,  
16 2008, TCC's opposition brief to be filed on or before December 15, 2008, and any reply brief to  
17 be filed on or before December 22, 2008. The Ex Parte Application also requested defendants'  
18 motion to dismiss be heard on January 12, 2009.

19          6.     On November 4, 2008, defendants Focus, eScription, and Nuance's Ex  
20 Parte Application was granted by this Court.

21          7.     On November 26, 2008, this Court issued an Order Continuing Hearing,  
22 rescheduling the hearing for defendant John Muir's Motion to Dismiss for January 12, 2009,  
23 such that all defendants' motions to dismiss would be heard on the same day.

24          8.     On December 1, 2008, defendants Focus, eScription, and Nuance filed a  
25 Motion to Dismiss TCC's First Amended Complaint.

26          9.     The parties now desire (a) to reschedule the initial Case Management  
27 Conference such that it would occur after the defendants' motions to dismiss have been heard, as  
28 this Court's disposition of the motions to dismiss may bear upon various issues to be addressed

1 at the initial Case Management Conference; and (b) to reschedule the hearings on defendants'  
2 motions to dismiss, as Plaintiff's counsel has a scheduling conflict on January 12, 2009.

3 10. All parties have met and conferred with regard to rescheduling the  
4 hearings on the defendants' motions to dismiss and the initial Case Management Conference in  
5 this matter, and have reached an agreement as to appropriate dates for each that would resolve  
6 the aforementioned scheduling conflicts and efficiency concerns.

7 **STIPULATION**

8 In light of the foregoing Recitals, the parties stipulate as follows:

9 1. The hearings on (a) defendant John Muir's Motion to Dismiss Plaintiff's  
10 First Amended Complaint; and (b) defendants Focus, eScription, and Nuance's Motion to  
11 Dismiss TCC's First Amended Complaint, shall both be continued to February 2, 2009.

12 2. The briefing schedule relating to defendants Focus, eScription, and  
13 Nuance's Motion to Dismiss TCC's First Amended Complaint shall not change as a result of this  
14 continuance.

15 3. The initial Case Management Conference in this matter shall be continued  
16 to March 9, 2009.

17 4. The deadlines associated with the initial Case Management Conference as  
18 set forth in the Court's Order Setting Initial Case Management Conference and ADR Deadlines  
19 shall be changed in accordance with the continuance of the Case Management Conference to  
20 March 9, 2009. Accordingly, the deadline to meet and confer regarding initial disclosures, early  
21 settlement, ADR process selection, and discovery plan, and to file ADR Certification signed by  
22 parties and counsel, and to file either Stipulation to ADR Process or Notice of Need for ADR  
23 Phone Conference shall be February 23, 2009. The deadline to file Rule 26(f) Reports, complete  
24 initial disclosures or state objections in Rule 26(f) Reports and file Case Management Statements  
25 shall be March 2, 2009.

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Dated: December 5, 2008

MENNEMEIER, GLASSMAN & STROUD LLP  
KENNETH C. MENNEMEIER  
LONDON D. BAILEY

By: Kenneth C. Mennemeier  
Kenneth C. Mennemeier, Attorneys for Plaintiff  
Transcription Communications Corporation

Dated: December 4, 2008

HANSON BRIDGETT LLP  
By: Batya F. Swenson  
Batya F. Swenson  
Adam W. Hofmann  
Attorneys for Defendant John Muir Health

Dated: December \_\_, 2008

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation  
By: Brian G. Mendonca  
Brian G. Mendonca, Attorneys for Defendants  
Focus Infomatics, Inc., eScription, Inc. and Nuance  
Communications, Inc.

**ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: December \_\_, 2008

THELTON E. HENDERSON, JUDGE  
UNITED STATES DISTRICT COURT

1 Dated: December \_\_, 2008

MENNEMEIER, GLASSMAN & STROUD LLP  
KENNETH C. MENNEMEIER  
LONDON D. BAILEY

2  
3 By: \_\_\_\_\_  
4 Kenneth C. Mennemeier, Attorneys for Plaintiff  
Transcription Communications Corporation

5 Dated: December \_\_, 2008

HANSON BRIDGETT LLP

6  
7 By: \_\_\_\_\_  
8 Batya F. Swenson  
Adam W. Hofmann  
Attorneys for Defendant John Muir Health

9 Dated: December 4, 2008

10 WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

11 By: B. M.  
12 Brian G. Mendonca, Attorneys for Defendants  
13 Focus Infomatics, Inc., eScripton, Inc. and Nuance  
Communications, Inc.

14 **ORDER**

15 PURSUANT TO STIPULATION, IT IS SO ORDERED.

16  
17 Dated: December 8, 2008

18 THELTON E. HENDERSON, JUDGE  
19 UNITED STATES DISTRICT COURT

