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8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO DIVISION
 11

12 ROGER GALLUP,

13 Plaintiff,

14 v.

15 UNITED STATES POSTAL SERVICE,

16 Defendant.
 17

No. C 09-00210-SC

STIPULATION AND [PROPOSED] ORDER

18 **I. INTRODUCTION**

19 Plaintiff, by and through his attorney of record and Defendant, by and through its attorneys of
 20 record, hereby stipulate, subject to approval of the Court, to the following: (1) to withdraw the
 21 government's motion to dismiss or, in the alternative, compel cooperation in discovery; (2) to
 22 vacate the December 18, 2009 hearing date on the government's motion to dismiss or, in the
 23 alternative, compel cooperation in discovery; (3) to vacate the further case management
 24 conference currently scheduled for January 8, 2010; (4) to extend the deadline for participating in
 25 a mediation from December 28, 2009, to June 11, 2010; and (5) to revise the discovery deadlines
 26 that the parties proposed in their joint case management statement.
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1 **II. PROCEDURAL HISTORY**

2 On January 16, 2009, Plaintiff Roger Gallup filed the above-entitled action alleging that he was
3 injured on January 17, 2007, as he exited his vehicle and slipped and fell on a patch of ice in the
4 parking lot of the United States Post Office located at 4300 Black Avenue, Pleasanton, California.
5 In the complaint, Plaintiff contends that Defendant failed to post warnings of the existence of ice
6 and breached its duty to maintain its property in a safe condition.

7 Plaintiff properly served Defendant on February 20, 2009, and Defendant filed an Answer on
8 April 6, 2009. The parties submitted a joint case management statement on April 24, 2009, and
9 this Court conducted a case management conference on May 1, 2009. At the case management
10 conference, at which Edward A. Olsen appeared for the government and Lisa Goldstein from the
11 law office of Woodall & Almeida appeared for the Plaintiff, the parties were directed to participate
12 in a mediation and to appear back in Court on January 8, 2010, for a further case management
13 conference.

14 In order to proceed with discovery in this case, government counsel sent Ms. Goldstein a letter,
15 dated April 1, 2009, attaching an Authorization to Release Medical Information and asking
16 opposing counsel to please have her client sign the Authorization. On June 17, 2009, government
17 counsel sent a follow-up letter to Ms. Goldstein, reiterating his request that she have her client
18 sign an Authorization to Release Medical Information and volunteering to accommodate a request
19 Ms. Goldstein had made not to subpoena medical records more than five years prior to the date of
20 the accident. *Id.* On July 6, 2009, government counsel called Ms. Goldstein to discuss, among
21 other topics, whether her client had signed the Authorization to Release Medical Information and
22 opposing counsel stated that she would check with her client. The parties also discussed whether
23 to participate in a mediation before significant discovery or afterwards, and agreed to discuss the
24 subject of the timing of mediation with our clients and get back to each other.

25 Despite a series of attempts to reach Ms. Goldstein by telephone and letter, the July 6, 2009
26 conversation was the last communication government counsel had with plaintiff's counsel in three
27 months. Accordingly, on October 7, 2009, government counsel filed a motion asking this Court to
28 dismiss the plaintiff's action under Fed. R. Civ. P. 41(b) for failure to prosecute or, in the

1 alternative, to compel the plaintiff's immediate cooperation in the discovery and mediation
2 process pursuant to Fed. R. Civ. P. 37(a).

3 On October 22, 2009, government counsel learned from the law office of Woodall and
4 Almeida that Ms. Goldstein had left employment with the law office on October 21, 2009.
5 Attorney Scott Woodall from the law office of Woodall and Almeida has agreed to provide
6 government counsel with his client's signed Authorization to Release Medical Information
7 forthwith.

8 III. THE STIPULATION

9 In light of the fact that Ms. Goldstein has left her law office and the fact that the government
10 expects to receive the plaintiff's signed Authorization to Release Medical Information forthwith,
11 the parties respectfully ask this Court to:

12 (1) deem withdrawn the government's motion to dismiss or, in the alternative, compel
13 cooperation in discovery;

14 (2) vacate the December 18, 2009 hearing date on the government's motion to dismiss or, in
15 the alternative, compel cooperation in discovery;

16 (3) vacate the further case management conference currently scheduled for January 8, 2010;

17 (4) extend the deadline for participating in a mediation from December 28, 2009, to June 11,
18 2010; and

19 (5) extend the discovery deadlines that the parties proposed in their joint case management
20 statement as follows:

21 Fact Discovery Cut-Off: April 16, 2010.

22 Expert Witnesses: Disclosure of expert witnesses and reports shall be completed by
23 May 7, 2010.

24 Expert Discovery Cut-Off: Expert discovery will be completed by June 4, 2010.

25 Hearing on Dispositive Motions (if any): August 6, 2010.

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1 DATED: November 19, 2009

JOSEPH P. RUSSONIELLO
United States Attorney

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/s/
EDWARD A. OLSEN
Assistant United States Attorney

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5 DATED: November 19, 2009

/s/
SCOTT WOODALL
WOODALL & ALMEIDA
Attorney for Plaintiff

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8 **[PROPOSED] ORDER**

9 Pursuant to stipulation, is is SO ORDERED THAT:

10 (1) The government's motion to dismiss or, in the alternative, compel cooperation in
11 discovery, is withdrawn;

12 (2) The December 18, 2009 hearing date on the government's motion to dismiss or, in the
13 alternative, compel cooperation in discovery, is vacated;

14 (3) The further case management conference currently scheduled for January 8, 2010, is
15 ~~vacated;~~ continued to August 6, 2010 at 10:00 a.m. *[Signature]*

16 (4) The deadline for participating in a mediation is extended from December 28, 2009, to June
17 11, 2010;

18 (5) The discovery deadlines that the parties proposed in their joint case management statement
19 are revised as follows:

20 Fact Discovery Cut-Off: April 16, 2010.

21 Expert Witnesses: Disclosure of expert witnesses and
22 reports shall be completed by May 7, 2010.

23
24 **IT IS SO ORDERED**
[Signature]
25
26 **U.S. DISTRICT JUDGE**

27 Expert Discovery Cut-Off: Expert discovery will be
28 completed by June 4, 2010.

Hearing on Dispositive Motions (if any): August 6,
2010.

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DATED: _____, 2009

SAMUEL CONTI
United States District Judge