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 9 DALE GIBSON

10  
 11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA  
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 15  
 16 DALE GIBSON,

Case No. C09-1035 MMC

17  
 18 Plaintiff,

19 v.

**STIPULATION AND [PROPOSED]  
 ORDER TO EXTEND THE TRIAL DATE  
 AND MEDIATION DEADLINE; ORDER  
 EXTENDING MEDIATION DEADLINE**

20 UNITED STATES OF AMERICA,  
 21

22 Defendants.  
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24  
 25 Plaintiff, DALE GIBSON, and Defendant, UNITED STATES OF  
 26 AMERICA, hereby stipulate to extend the trial date and deadline  
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1 to mediate this matter. Currently the trial is set for November  
2 1, 2010, and mediation deadline is July 16, 2010. The parties  
3 have stipulated to move the trial date out 90 days to February  
4 1, 2011, and move the mediation deadline 90 days to October 16,  
5 2010.  
6

7 Good cause for this extension exists due to the fact that  
8 this is a Jones Act personal injury case where both the  
9 witnesses and the plaintiff have been at sea for extended  
10 amounts of time. Up until recently it was unknown as to when  
11 plaintiff was to return. Additionally the vessel, the S.S. CAPE  
12 JACOB, where the injury occurred is permanently stationed in the  
13 far east at various ports.  
14

15 Although bother parties have worked together to complete  
16 discovery the main issue is in attempting to locate shipboard  
17 witnesses at the time of the incident. To date plaintiff's  
18 deposition has been completed as well as significant written  
19 discovery. However, both parties have been unable to locate the  
20 crewmembers that were aboard the S.S. CAPE JACOB when plaintiff  
21 sustained his injury.  
22

23 Additionally, plaintiff has been informed that the S.S.  
24 CAPE JACOB is an active duty military contracted vessel, and as  
25 such, plaintiff is not permitted to board and inspect the cargo  
26  
27

1 holds where the injury occurred. The cargo holds contain  
2 ammunition and are off-limits. Subsequently plaintiff and  
3 defendant have been attempting to secure a "sister ship" of the  
4 S.S. CAPE JACOB in question in order to conduct an examination  
5 of "a like" cargo hold. These attempts thus far have been  
6 unsuccessful.  
7

8 Despite the above issues both parties feel that this  
9 requested extension will be necessary so that a meaningful  
10 mediation can take place. The parties have agreed to  
11 participate in private mediation, and a private mediator has  
12 been selected. Currently the mediation deadline is set for July  
13 16, 2010, however without depositions of crewmembers who were  
14 aboard the CAPE JACOB at the time of injury mediation before  
15 July 16 will not be fruitful. It is anticipated that these  
16 depositions will identify the cargo hold configuration,  
17 including descriptions of the ladder from which plaintiff fell.  
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20 Court assigned mediator, Mark Penskar, has been contracted  
21 and agrees with extending the mediation date as well as allowing  
22 the parties to engage in private mediation.  
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**ORDER OF THE COURT**

GOOD CAUSE having been shown, the mediation deadline in this case is to be extended 90-days. The new ~~trial date is February 1, 2010~~ and the new mediation deadline is set for October 16, 2010.

The issue of whether the trial date should be continued, and, if so, to what date, will be addressed at the August 6, 2010 Status Conference.

Dated: July 12, 2010

/s/ Vaughn R Walker for  
MAXINE M. CHESNEY  
FEDERAL DISTRICT COURT JUDGE