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7 Attorneys for Defendant
 FIREMAN'S FUND INSURANCE COMPANY
 8

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN FRANCISCO DIVISION
 12

13 LINDA J. BEESON, et al.,
 14 Plaintiffs,
 15 v.
 FIREMAN'S FUND INSURANCE COMPANY,
 16 INC., a corporation, and DOES 1 through 50,
 inclusive,
 17 Defendants.
 18

No. 09-CV-02776 SC

**STIPULATION AND ~~PROPOSED~~
 ORDER RE: BRIEFING SCHEDULE
 ON MOTIONS TO DISMISS AND
 REMAND**

Date: August 28, 2009
 Time: 10:00 a.m.
 Place: Courtroom 1, 17th Floor
 Judge: Hon. Samuel Conti

1 Whereas,

2 1. On June 23, 2009, Defendant Fireman’s Fund Insurance Company
3 (“FFIC”) removed this case from state court, contending that Plaintiffs’ state-law claims alleged
4 in their First Amended Complaint (“FAC”) are completely preempted by the Employee
5 Retirement Incomes Security Act of 1974, 29 U.S.C. § 1001, et seq. (“ERISA”), thus giving rise
6 to federal jurisdiction.

7 2. On June 26, 2009, FFIC moved to dismiss the FAC, contending that
8 Plaintiffs’ state-law claims are preempted and completely preempted by ERISA, and thus should
9 be dismissed on the merits. FFIC’s motion to dismiss is currently set for hearing on July 31,
10 2009, at 10:00 a.m.

11 3. Plaintiffs contend that their state-law claims alleged in the FAC are not
12 completely preempted by ERISA and therefore that no federal jurisdiction exists over this case.
13 Plaintiffs plan to file a motion to remand this case to state court.

14 4. Plaintiffs contend that their state-law claims alleged in the FAC are neither
15 preempted nor completely preempted by ERISA, and therefore they intend to oppose FFIC’s
16 pending motion to dismiss.

17 5. The issues raised by FFIC’s motion to dismiss and Plaintiffs’ anticipated
18 motion to remand are heavily interrelated, as they both involve arguments concerning whether
19 the claims alleged in the FAC are preempted and/or completely preempted by ERISA.
20 Accordingly, it is in the interest of the Court and the parties for these motions to be briefed and
21 heard together.

22 6. There have been no previous time modifications with respect to these
23 motions.

24 Accordingly, pursuant to Civil Local Rule 6-2, the parties hereby stipulate and ask
25 the Court to order as follows:

26 A. FFIC’s pending motion to dismiss – which is currently set for hearing on
27 July 31, 2009 at 10:00 a.m. – is reset for hearing on August 28, 2009, at 10:00 a.m.

28 B. Plaintiffs shall file their motion to remand no later than July 17, 2009, and

1 Attestation: I hereby attest that I have on file all holograph signatures for any
2 signatures indicated by a “conformed” signature (/s/) within this efiled document.

3
4 DATED: July 7, 2009

BINGHAM MCCUTCHEN LLP

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6 By: /S/ Thomas S. Hixson
7 Thomas S. Hixson
8 Attorneys for Defendant
9 FIREMAN’S FUND INSURANCE
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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

14 LINDA J. BEESON, et al.,
15 Plaintiffs,
16 v.
17 FIREMAN'S FUND INSURANCE
COMPANY INC., et al.,
18 Defendants.
19

No. 09-CV-02776 SC

PROOF OF SERVICE

Date: August 28, 2009
Time: 10:00 a.m.
Place: Courtroom 1, 17th floor
Judge: Hon. Samuel Conti

20

21 I, Kelley A. Garcia, declare:

22 I am over eighteen years of age, not a party in this action, and employed in
23 San Francisco County, California at Three Embarcadero Center, San Francisco, California
24 94111-4067. I am readily familiar with the practice of this office for collection and processing
25 of correspondence for mail/fax/email/hand delivery/next business day FedEx delivery, and they
26 are deposited/delivered/transmitted that same day in the ordinary course of business.

27 //

28 //

1 On July 7, 2009, I served the following documents:

2 **STIPULATION AND [PROPOSED] ORDER RE: BRIEFING**
3 **SCHEDULE ON MOTIONS TO DISMISS AND REMAND**

4 (BY FAX) by transmitting via facsimile the document(s) listed above to the fax
5 number(s) set forth below on this date before 5:00 p.m.

6 (BY MAIL) by causing a true and correct copy of the above to be placed in the
7 United States Mail at San Francisco, California in sealed envelope(s) with postage
8 prepaid, addressed as set forth below. I am readily familiar with this law firm's
9 practice for collection and processing of correspondence for mailing with the
10 United States Postal Service. Correspondence is deposited with the United States
11 Postal Service the same day it is left for collection and processing in the ordinary
12 course of business.

13 (EXPRESS MAIL/OVERNIGHT DELIVERY) by causing a true and correct copy
14 of the document(s) listed above to be delivered by _____ in sealed
15 envelope(s) with all fees prepaid at the address(es) set forth below.

16 (PERSONAL SERVICE) by causing a true and correct copy of the above
17 documents to be hand delivered in sealed envelope(s) with all fees fully paid to the
18 person(s) at the address(es) set forth below.

19 (CM/ECF) by electronically filing the foregoing with the Clerk of the Court using
20 the CM/ECF system which sent electronic notification of such filing to all counsel
21 of record.

22 (VIA EMAIL) by transmitting via email the document(s) listed above on this date
23 before 5:00 p.m. PST to the person(s) at the email address(es) set forth below.

24 Val D. Hornstein, Esq.
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27 San Francisco, CA 94111
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1 I declare that I am employed in the office of a member of the bar of this court at
2 whose direction the service was made and that this declaration was executed on July 7, 2009, at
3 San Francisco, California.

4 _____
5 /S/ Kelley A. Garcia
6 Kelley A. Garcia
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