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7	and SUKHWANT K. DENHOY, as individuals and as Trustees of THE DENHOY LIVING TRUST, d.		
8	WILLOW PASS MOBILE HOME PARK, and NITA DENHOY		
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12	Attorneys for Plaintiff THERESA HUERTA		
13	UNITED STATES DISTRICT COURT		
14			
15	NORTHERN DISTRI	CT OF CALIFORNIA	
16	THERESA HUERTA	Case No. C-09-03130 EDL	
17	Plaintiff	STIPULATION OF THE PARTIES UPON THE COURT'S CONTINUANCE	
18	vs.	OF THE TRIAL AND [PROPOSED] ORDER FOR CONTINUANCE OF JURY	
19	BALWANT S. DENHOY and SUKHWANT K. DENHOY, as individuals and as trustees of	TRIAL AS MODIFIED	
20	THE DENHOY LIVING TRUST, d.b.a. WILLOW PASS MOBILE HOME PARK,		
21	THE DENHOY LIVING TRUST, NITA DENHOY, and DOES 1 THROUGH 10,		
22	INCLUSIVE,		
23	Defendants.		
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25	STIPULATION OF THE PARTIES UPON THE COURT'S CO. CONTINUANCE OF JUR	NTINUANCE OF THE TRIAL AND [PROPOSED] ORDER FOR RY TRIAL C-09-03130 EDL	

Whereas Plaintiff THERESA HUERTA and Defendants BALWANT S. DENHOY and SUKHWANT K. DENHOY, as individuals and as trustees of THE DENHOY LIVING TRUST, d.b.a. WILLOW PASS MOBILE HOME PARK, THE DENHOY LIVING TRUST and NITA DENHOY [collectively, the Parties] have been informed by the Court that the November 15, 2010, trial date in this action must be continued because the Hon. Elizabeth D. Laporte is not available to preside over the trial commencing on that date;

Whereas the Court, in its CASE MANAGEMENT AND PRETRIAL ORDER FOR JURY
TRIAL dated November 4, 2009 [hereinafter "The November 4, 2009, Pretrial Order"], set this case for
Jury Trial to commence on November 15, 2010, and set other pretrial deadlines;

Whereas the Parties have been informed by the Court that there is a date of March 21, 2011, available on the Court's calendar for trial, with two weeks available for trial in this case.;

Whereas the Parties have completed all non-expert discovery; except for two witnesses who are employed as postal carriers by the United States Postal Service;

Whereas Plaintiff has disclosed Pamela Reid, Ph. D., as Plaintiff's expert, and rebuttal expert, for matters relating to Plaintiff's dog, and Adrianne Aron, Ph.D., as Plaintiff's expert, and rebuttal expert, for matters related to Theresa Huerta's medical condition;

Whereas Defendant has disclosed Patrick Melese, DVM, MA, DACVB, as Defendants' expert, and rebuttal expert, for matters regarding Plaintiff's dog, and Mardi J. Horowitz, M.D., as Defendants' rebuttal expert for matters related to Post-traumatic Stress Disorder;

Whereas no depositions of experts have yet been taken;

Whereas the Parties engaged in mediation before mediator Jean Hyams, Esq., on January 11, 2010, and further engaged in extensive informal face-to-face settlement discussions on August 4, 2010, and August 9, 2010, so far without success;

Whereas the court has offered the Parties the services of a Magistrate Judge of the Court to conduct further settlement discussions; if the Parties further wish to engage in mediation;

Whereas the Parties agree that further mediation or settlement discussions would not be productive at this time, but agree that the services of a Magistrate Judge to engage the Parties in further settlement discussions might well be productive in the future; and

Whereas Defendants have established to the satisfaction of Plaintiff's counsel that Defendant Balwant S. Denhoy is not competent to act on his own behalf in regard to this action, as the result of head trauma suffered several years ago;

The Parties, by and through their counsel of record, hereby stipulate as follows:

1. TRIAL DATE

- a. Jury trial will commence on **March 21, 2011, at 8:30 a.m.** in Courtroom E, 15th Floor, 450 Golden Gate Avenue, San Francisco, California 94102. Any party who wants to order a daily transcript must notify the Court Reporter Supervisor at least two weeks before the date set for trial.
 - b. The length of the trial will be not more than **10 days**.

2. DISCOVERY

- a. The Parties acknowledge that all non-expert discovery has been completed, with the exception of the possible depositions of two employees of the United States Postal Service, Alex Cosas and Ana Ruvalcaba, which depositions the Parties hereby stipulate and agree may be noticed by either party to occur not later than **December 31, 2010**.
- b. The Parties agree and stipulate that all expert discovery, including the depositions of any non-retained experts that have been disclosed by the Parties, shall be completed by not later than **January 19, 2011**, and that there will be no further expert discovery after that date except by Order of

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the Court for good cause shown. The Parties further agree and stipulate that any and all motions to compel expert discovery shall be filed by not later than **January 26, 2011**, in accordance with Civil Local Rule 26-2.

3. ALTERNATIVE DISPUTE RESOLUTION

As the Parties have engaged in formal mediation before court-appointed mediator Jean Hyams, Esquire, and engaged in information settlement discussions on August 4, 2010, and August 9, 2010, without success, the Parties agree that it would not likely be productive to accept the court's offer of the services of a Magistrate Judge to preside over a further settlement conference at this time. However, the Parties jointly request that the court hold open its offer of the services of a Magistrate Judge for purpose of a settlement conference should the Parties later agree that such a conference would be desirable.

4. PRETRIAL CONFERENCE

March 1

- a. A Pretrial Conference will be held on March 2, 2011 at 2:00 p.m. in Courtroom E, 15th Floor. Each party shall attend personally or by lead counsel who will try the case.
- b. The Parties acknowledge that on September 15, 2010, lead counsel met and conferred regarding the matters set forth in Paragraph 5(b) of the November 4, 2009 Pretrial Order, and agree that by so meeting, the Parties have fulfilled the requirements of Paragraph 5(b) of the Court's November 4. 2009, Pretrial Order.
- d. Counsel and/or the Parties shall meet the deadlines set forth in Paragraph 5(c) of the Court's November 4, 2009, Pretrial Order not later than **Thursday**, **February 10, 2011**, that is, not less than **twenty (20) days** prior to the **March 2, 2011**, pretrial conference.
- e. Counsel and/or the Parties shall meet the deadlines set forth in Paragraph 5(d) of the court's November 4, 2009, Pretrial Order not later than **Friday, February 18, 2010**, that is, not less that **ten (10) days** before prior to the pretrial conference.

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1	5. All of the provisions of the court's November 4, 2009, Pretrial Order not otherwise modified		
2	herein remain in force and effect.		
3	6. The Parties stipulate and agree that Defendants may apply to the court ex parte or on noticed		
4	motion, if the court so requires, or by any other procedure acceptable to the court, for an Order		
5	appointing a Guardian ad litem for Defendant Balwant S. Denhoy, which Guardian ad Litem shall		
6	consent to having Judge Laporte conduct any and all further proceedings in this case, including trial, an		
7	shall execute a form indicating such voluntary consent should the court so require.		
8			
9	Dated: October 14, 2010 SCHIFF HARDIN LLP		
10			
11	By: :/s/ Bruce A. Wagman		
12	BRUCE A. WAGMAN Attorneys for Plaintiff		
13	THERESA HUERTA		
14	Dated: October 14, 2010 Law Offices of KAPLAN & SAM		
15			
16	By: /s/ Benjamin Elliot Kaplan		
17	BENJAMIN ELLIOT KAPLAN		
18	Attorneys for Defendants BALWANT S. DENHOY and SUKHWANT K.		
19	DENHOY, as individuals and as Trustees of THE DENHOY LIVING TRUST, d.b.a. WILLOW PASS		
20	MOBILE HOME PARK, and NITA DENHOY		
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PURSUANT TO STIPULATION, IT IS SO ORDERED. Dated: October <u>18</u>, 2010 Elijah P. D. Laporte ELIZABETH D. LAPORTE United States Magistrate Judge

DECLARATION OF DOUGLAS CAMERON MACLELLAN REGARDING STIPULATION OF THE PARTIES UPON THE COURT'S CONTINUANCE OF THE TRIAL AND [PROPOSED] ORDER FOR CONTINUANCE OF JURY TRIAL

- I, Douglas Cameron MacLellan, declare:
- 1. I am an attorney at law admitted to practice before all courts of this State and admitted to practice before the U.S. District Court for the Northern and Central Districts of California, as well as the Ninth Circuit Court of Appeals. I am associated with the Law Offices of KAPLAN & SAM, attorneys of record for Defendants BALWANT S. DENHOY and SUKHWANT K. DENHOY, as individuals and as Trustees of THE DENHOY LIVING TRUST, d.b.a. WILLOW PASS MOBILE HOME PARK, and NITA DENHOY. The matters stated herein are true as of my own knowledge.
- 2. The instant Stipulation has been prepared because the Parties were informed on September 3, 2010, by Lili Harrell, courtroom deputy for the Hon. Elizabeth D. Laporte, that the trial ir this matter, which had been set for November 15, 2010, would be continued because Magistrate Judge Laporte was not available to commence the trial on November 15, 2010. Ms. Harrell stated that the court had a two-week opening commencing on March 21, 2011 available to try this case.
- 3. There have been three previous modifications of time periods in this case by stipulation, related to amendment of pleadings, time for response of one defendant, and extensions of discovery deadlines. The Parties, in the instant Stipulation, seek an extension of time to complete expert discovery beyond the time originally provided for by the court's November 4, 2009, Order. Given the continuance of the trial to March 21, 2011, the extension of time that the Parties seek to complete expert discovery would result the completion of expert discovery approximately three months before any further pre-trial filings would be required to be filed with the court.
- 4. Except for the deadlines indicated in the attached Stipulation, no other dates or deadlines set forth in the court's Case Management and Pretrial Order for Jury Trial dated November 3, 2009, shall be changed or affected by this Order.

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1	5. The above Stipulation was drafted in cooperation with Bruce A. Wagman, Esq., who
2	has reviewed and approved its contents, and who has authorized my office to file the Stipulation with
3	his electronic signature on his behalf. In the event the Stipulation is filed by Mr. Wagman's office, Mr.
4	Wagman is likewise authorized to file this Stipulation with the electronic signature of Benjamin Elliot
5	Kaplan, Esq., and my electronic signature on our behalf.
	I declare under penalty of perjury under the laws of the United States of America that the
6	foregoing is true and correct.
7	Dated: October 14, 2010
8	/s/ Douglas Cameron MacLellan DOUGLAS CAMERON MACLELLAN
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- 1	CTRULLATION OF THE DARTIES FROM THE COURTS CONTINUANCE OF THE TRIAL AND IRROROGED ORDER FOR