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 11 BAYSIDE BOATWORKS, INC.

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 (E-Filing)

10 ROBERT C. KEMPER,
 11 Plaintiff,
 12 v.
 13 BAYSIDE BOATWORKS, INC.,
 14 Defendant.
 15 _____

) Case No.: C 10-0242MEJ
)
) **STATUS UPDATE AND REQUEST**
) **FOR [PROPOSED] ORDER TO**
) **CONTINUE THE CASE**
) **MANAGEMENT CONFERENCE**
) **SCHEDULED FOR SEPTEMBER 2,**
) **2010 OR ALTERNATIVELY**
) **REQUESTING THAT THIS STATUS**
) **UPDATE SERVE AS THE PARTIES'**
) **CASE MANAGEMENT**
) **CONFERENCE STATEMENT FOR**
) **THE UPCOMING CASE**
) **MANAGEMENT CONFERENCE**

Date: September 2, 2010
 Time: 10:00 a.m.
 Dept: Courtroom B, 15th Floor

19 Plaintiff Robert Kemper and defendant Bayside Boatworks, Inc., by and through
 20 their respective counsel hereby request that the upcoming Case Management Conference
 21 scheduled for September 2, 2010 be continued a reasonable length of time and/or that this
 22 Status Update serve as the parties' Joint Case Management Conference Statement for the
 23 upcoming mediation.

24 There has been a prior continuance of the Case Management Conference from June
 25 17, 2010 to the current date of September 2, 2010.

26 Counsel for the parties make this request on the following grounds:

27 **STATUS AND REQUEST FOR CONTINUANCE**

28 The parties to this action, by and through their attorneys of record, hereby

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1 respectfully request and submit that *good cause* exists to continue the Case Management
2 Conference currently scheduled for September 2, 2010, by a reasonable amount of time, but
3 no longer than sixty-days to a date convenient to the Court's calendar in the interests of
4 judicial economy. Alternatively, the parties ask that this Status Update serve as the parties
5 Joint Case Management Conference Statement to be discussed with the Court at the
6 upcoming Case Management Conference Statement.

7 This matter involves a claim being asserted by plaintiff Robert Kemper against his
8 former employer Bayside Boatworks, Inc., for personal injuries he allegedly sustained
9 during the course and scope of his employment. Plaintiff alleges that Bayside Boatworks,
10 Inc., was required to maintain U.S. Longshore and Harborworkers' Compensation insurance
11 coverage to provide insurance coverage for such claims but that defendant failed to do so.
12 Plaintiff alleges that he is entitled to maintain this civil action as a result of the defendant's
13 alleged failure to procure appropriate U.S. Longshore and Harborworkers' Compensation
14 insurance. Defendant denies these allegations.

15 The plaintiff is also a claimant in a U.S. Longshore and Harborworkers'
16 Compensation Act claim pending before the U.S. Department of Labor. Defendant Bayside
17 Boatworks, Inc., is the respondent employer in that action. The plaintiff is also the applicant
18 in a currently pending California State Workers Compensation Act claim with Bayside
19 Boatworks the respondent in that action. All three actions (this civil action and the two
20 workers compensation actions) involve the same alleged injuries.

21 The parties to this action, their counsel, counsel for Defendant in the related
22 California State Workers' Compensation Action, counsel for Plaintiff in the related U.S.
23 Longshore and Harborworkers' Compensation Action, and one additional party (the
24 "additional party" is the E&O carrier for defendant Bayside Boatwork's Inc.'s insurance
25 broker to whom the defendant has tendered its defense in this action and the Longshore
26 action) *have all agreed to participate in a global mediation in an attempt to resolve the*
27 *issues raised in this action as well as each of the companion workers compensation*
28 *actions.* The previous Case Management Conference was continued to allow the parties the

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1 opportunity to participate in a global mediation.

2 At the time of the last submission the parties had not been fully apprised as to
3 whether the additional party, to whom Bayside Boatworks' defense has been tendered (but
4 not accepted), would agree to participate in a mediation. That party has now agreed to do
5 so. As a result, the parties are continuing to attempt to schedule a mediation for all parties
6 and counsel to participate in mid to late September 2010. It had been hoped that a
7 mediation could be scheduled for mid-August 2010, but counsel for Defendant was unable
8 to obtain the final party's consent to participate in a mediation until the end of July 2010,
9 which made a mediation in mid-August unfeasible.

10 At the mediation (which the parties are diligently attempting to schedule), the parties
11 will attempt to reach a global settlement of all actions, including the one currently pending
12 before this Court. If the parties are successful, a global settlement would result in a
13 dismissal of this action with no further proceedings in this Court.

14 The parties therefore submit that *good cause* exists to continue the Case
15 Management Conference scheduled for September 2, 2010 for a reasonable period of time
16 to allow the parties to schedule and participate in a mediation in attempt to reach a
17 resolution of this action and the companion workers' compensation cases.

18 Alternatively, the parties request that this Status Update serve as the parties' Joint
19 Case Management Conference Statement and that counsel and the Court address the issues
20 raised in this Stipulation at the upcoming Case Management Conference.

21
22 Dated: August 24, 2010

BRODSKY MICKLOW BULL & WEISS LLP
Attorneys for Plaintiff ROBERT KEMPER

23 By: /S/ Edward M. Bull III
24 Edward M. Bull III

25 Dated: August 26, 2010

COX, WOOTTON, GRIFFIN,
HANSEN & POULOS, LLP
Attorneys for Defendant
BAYSIDE BOATWORKS, INC.

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27 By: /S/ Marc T. Cefalu
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~~[PROPOSED] ORDER #1~~

1
2 BASED UPON THE STIPULATION OF THE PARTIES, IT IS ORDERED THAT
3 the Case Management Conference Currently scheduled for September 2, 2010, is hereby
4 continued to November 18, 2010.

5
6
7 Dated: August 26, 2010

By: 
Magistrate Maria-Elena James

8
9
10 OR

11 ~~[PROPOSED] ORDER #2~~

12 BASED UPON THE STIPULATION OF THE PARTIES, IT IS ORDERED THAT
13 this Status Update shall serve as the parties Joint Case Management Conference Statement
14 for the upcoming Case Management Conference.

15
16 Dated: August , 2010

By: _____
Magistrate Maria-Elena James

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