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 15 UNITED STATES DISTRICT COURT
 16 NORTHERN DISTRICT OF CALIFORNIA
 17 SAN FRANCISCO DIVISION

18 Louis J. Rizzo,)
 19 Plaintiff,) Case No. C 10-854 SC
 20 v.)
 21 UNITED STATES OF AMERICA,)
 22 Defendant.)
 23

**STIPULATION AND [PROPOSED]
 ORDER TO CONTINUE DATES FOR
 CLOSE OF FACT DISCOVERY, PRE-
 TRIAL CONFERENCE AND BENCH
 TRIAL**

24 IT IS HEREBY STIPULATED by and between the undersigned, subject to the approval of
 25 the Court, that the Court continue the date for the close of fact discovery, the pre-trial conference
 26 and the bench trial because more time is required for the development of the record in this case.

27 The Court set the trial date and all other dates in this case following a Case Management
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1 Conference held on September 17, 2010. The Court scheduled a bench trial for February 7, 2011
2 at 9:30 a.m., a pre-trial conference for January 21, 2011 at 10:00 a.m., a motion hearing date of
3 December 17, 2010 at 10:00 a.m., and the date by which all fact discovery and all depositions
4 taken as December 7, 2011. The Court recently extended the discovery deadline to December
5 22, 2011 for four physicians that Defendant seeks to depose, and the Court handwrote in the
6 order approving the stipulation that “all other dates remain in place.” The Court also issued a
7 Court Trial Preparation Order on December 6, 2010.

8 The parties request a continuance of the date for the close of fact discovery, the pre-trial
9 conference and the bench trial. Counsel for both parties have diligently pursued preparation and
10 discovery in this case in pursuit of the schedule set out above, including the locating, vetting and
11 obtaining of copies of multiple and voluminous medical and other records pertaining to Plaintiff
12 Louis Rizzo, some going back to the period of World War II, and many of which have only been
13 available after obtaining consents for the release of records and the subpoena of records from
14 non-VA medical providers. Additionally, it has been very challenging to locate and try to make
15 arrangements for discovery of VA medical witnesses who were involved in the care of Plaintiff
16 Rizzo back in 2003 and 2004. Many of these personnel were serving in intern and residency
17 positions and have moved on. At the very time the parties submitted the stipulation about the
18 four physician witnesses, the Parties were engaged most of last week in ongoing depositions of
19 the Plaintiff and his two adult children who have functioned not only as caretakers for Plaintiff
20 (the reasons for, extent, and necessity of that care being an issue of some dispute between the
21 parties), but Mr. Rizzo’s adult children also proved knowledgeable about many areas of the case
22 which have to be explored extensively by the Defendant United States. The deposition of the
23 Plaintiff was not able to be completed last week despite the good faith efforts of the parties and
24 Mr. Rizzo, and it is very clear from the progress of those depositions and the issues raised both in
25 the depositions and in discussions among counsel, that the scope of discovery and preparation in
26 this matter is broader and more time consuming than Counsel on either side anticipated, and that
27 more time will be necessary in order to prepare this case properly.

28 Both sides have acted in complete good faith, including participating in voluntary earlier

1 mediation in an attempt to resolve this without further litigation. The Parties will continue to do
2 so, but to complete the necessary discovery and trial preparation means that the parties need
3 some additional time.

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