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25 UNITED STATES DISTRICT COURT
 26 NORTHERN DISTRICT CALIFORNIA
 27 SAN FRANCISCO DIVISION

28 STEVEN A. GRAY,
 Plaintiff,
 vs.
 UNITED STATES OF AMERICA; and
 DOES 1 through 30, inclusive.
 Defendant.
 UNITED STATES OF AMERICA,
 Counter-Claimant,
 vs.
 MANUEL MARTINEZ and STEVEN A.
 GRAY
 Counter-Defendants

Case No. CV 11-0680 SC

**STIPULATION & ~~PROPOSED~~
 ORDER TO CONTINUE PRETRIAL,
 ADR, AND TRIAL DEADLINES**

Case filed: February 15, 2011

1 IT IS HEREBY STIPULATED by and between Plaintiff/ Counter-Defendant STEVEN A.
2 GRAY (sometimes hereinafter "Plaintiff GRAY") and Defendant/Counter-Claimant UNITED
3 STATES OF AMERICA (sometimes hereinafter "Defendant USA"), by and through their
4 attorneys of record, that GOOD CAUSE exists and the parties request that the Court continue the
5 pretrial and trial deadlines based on the following:

6 1. The suit involves liability for the Trust Fund Recovery Penalty for quarters ending
7 March 31, 2007, September 30, 2007, December 31, 2007, March 31, 2008, and June 2008 as to
8 federal employment taxes owed by Ace Roofing, Inc., a California corporation owned by
9 MANUEL MARTINEZ.

10 2. Plaintiff/ Counter-Defendant GRAY disputes allegations that he was a responsible
11 officer of Ace Roofing, Inc. and allegations that he willfully failed to collect, account for or turn
12 over withholding and F.I.C.A. taxes with respect to Ace Roofing's employees for said periods.
13 Mr. GRAY asserts that he was not a "Responsible Person" nor was he "Willful" within the
14 meaning of 26 U.S.C § 6672 and the applicable court cases there under, nor under any other
15 federal law provision.

16 3. Plaintiff GRAY has filed a *Certification of Interested Entities or Persons* as follows:

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| Name | Connection or Interest |
|---|---|
| ACE ROOFING, INC., a California corporation Agent For Service Process – Manuel D. Martinez | Principal debtor failing to tender federal employment taxes due to Defendant United States of America |
| MANUEL D. MARTINEZ 9065 Lakewood Drive Windsor, CA 95492 | Principal debtor failing to tender federal employment taxes due to Defendant United States of America |
| MADELINE M. MARTINEZ 9065 Lakewood Drive Windsor, CA 95492 | Spouse of Principal debtor failing to tender federal employment taxes due to Defendant United States of America and transferee of assets belonging to MANUEL MARTINEZ AND ACE ROOFING, INC. |

25 4. Counter-Defendant MANUEL MARTINEZ has stipulated to entry of judgment and
26 has been dismissed from this action.

27 5. Pursuant to Federal Rule of Civil Procedure 16(b)(4), good cause exist for the Court to
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1 modify its September 9, 2011 *Order Continuing Trial and Pretrial Deadlines* and October 18,
2 2011 *Order Selecting ADR Process Early Neutral Evaluation*.

3 6. Assistant US Attorney Cynthia Stier, Esq. was recently been assigned to this matter
4 during Assistant US Attorney Blake Stamm's extended leave. Plaintiff/ Counter-Defendant
5 STEVEN A. GRAY and Defendant/Counter-Claimant UNITED STATES OF AMERICA have
6 been engaged in renewed settlement negotiations and are exploring settlement options that require
7 certain government verification and approvals that will not be completed 1) prior to the current
8 January 5, 2011 Discovery cut-off, 2) January 10, 2012 deadline for the parties' Early Neutral
9 Evaluation ["ENE"] Briefs, 3) January 12, 2012 ENE Conference, 4) January 16, 2012 ENE
10 deadline, and 5) January 13, 2012 hearing on Plaintiffs' motion for joinder of Madeline
11 Martinez. If settlement is feasible, all matters may be taken off calendar without additional
12 expenditure of the parties' and the Court's resources.

13 7. The parties are mindful of and respectful of the Court's September 9, 2011 *Order*
14 *Continuing Trial and Pretrial Deadlines* and October 18, 2011 *Order Selecting ADR Process*
15 *Early Neutral Evaluation* but as detailed herein above additional times is required to explore
16 settlement options and reach settlement if feasible. A short continuance of the discovery cut-off,
17 ENE, pretrial, and trial deadlines is necessary to allow the parties to complete their pending
18 settlement exploration and obtain necessary government verifications and approvals if full and
19 final settlement can be reached.

20 8. Based on the foregoing, the parties respectfully request that this Court 1) modify its
21 September 9, 2011 *Order Continuing Trial and Pretrial Deadlines*, 2) modify its October 18,
22 2011 *Order Selecting ADR Process Early Neutral Evaluation*, and 3) continue the current
23 discovery cut-off and all pre-trial and trial related dates for at least thirty (30) days including but
24 not limited to the dates requested below:

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1 **ORDER**

2 Upon consideration of the parties' *Stipulation & [Proposed] Order To Continue Pretrial,*
3 *ADR, and Trial Deadlines,* and good cause appearing therefor,

4 IT IS HEREBY ORDERED that the pretrial and trial deadlines be continued as follows:

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| | Previous Deadline | Revised Deadline |
|---|--------------------------|-------------------------|
| Mediation / Early Neutral Evaluation Deadline | January 16, 2012 | February 22, 2012 |
| Discovery Cut-Off | January 5, 2012 | February 9, 2012 |
| Motion Hearing Cut-Off | January 13, 2012 | February 17, 2012 |
| Hearing On Motion For Joinder Of Madeline Martinez | January 13, 2012 | February 17, 2012 |
| Pre-Trial Conference | February 24, 2012 | March 30, 2012 |
| Trial | March 5, 2012 | April 9, 2012 |

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14 IT IS SO ORDERED.

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16 Dated: December 27, 2011



17 Honorable Samuel Conti

18 United States District Court Judge