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Attorneys for Plaintiff
CHAD EMPEY

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CHAD EMPEY,
Plaintiff,

vs.

ALLIED PROPERTY & CASUALTY
INSURANCE COMPANY, and DOES 1 to
50, inclusive,
Defendants.

Case No. 3:11-CV-00733-SC

**JOINT STIPULATION AND [PROPOSED]
ORDER TO CONTINUE THE TRIAL
DATE**

Complaint filed: January 20, 2011

Plaintiff CHAD EMPEY ("Plaintiff") and Defendant ALLIED PROPERTY &
CASUALTY INSURANCE COMPANY ("Allied") (collectively, the "Parties") through their
respective counsel present the following stipulation and proposed order regarding a continuance
of the trial date, currently set for January 30, 2012, and a continuance of the discovery deadlines
in this case so that the Parties can complete the depositions already noticed. This stipulation is
based on the following:

WHEREAS, the Parties engaged in prolonged mediation activities with Thomas H.R.

1 Denver beginning on September 23, 2011, which did not conclude until November 14, 2011.
2 During that time, the Parties deferred all pending depositions and discovery until the mediation
3 process was completed. The Parties have since resumed discovery, and while the Parties have
4 been diligent in taking depositions, they will not be able to conclude all necessary depositions
5 already noticed within the discovery cutoff date as currently set. Moreover, as a result of
6 additional meeting and conferring, the Parties have agreed to engage in further mediation
7 discussions. The Parties agree that continuing the trial date to May 7, 2012 will allow the Parties
8 another opportunity to try to resolve this matter without trial. This stipulation is based on the
9 following:

10 WHEREAS, a Status Conference was held for this matter on May 27, 2011, where the
11 Court set the following dates:

- 12 1. Discovery Cutoff: November 30, 2011
- 13 2. Pretrial Conference Statement: No Date Set
- 14 3. Pretrial Conference: January 13, 2012
- 15 4. Jury Trial: January 30, 2012

16 WHEREAS, Defendant filed its Motion for Partial Summary Judgment on September 22,
17 2011 in accordance with the Status Conference, and the Court set the hearing for it for December
18 9, 2011;

19 WHEREAS, the Court thereafter continued the hearing date on the Motion for Partial
20 Summary Judgment to January 13, 2012;

21 WHEREAS the Court also continued the discovery deadlines as follows:

- 22 1. Non-Expert Discovery Cutoff: December 23, 2011;
- 23 2. Expert Disclosures: January 2, 2012;
- 24 3. Disclosure of Rebuttal Experts: December 30, 2011;
- 25 4. Expert Discovery Cutoff: January 12, 2012.
- 26 5. Last day to hear motions: January 13, 2012.

27 WHEREAS, the Parties respectfully request that the Court continue the trial date in this
28 matter and further modify the discovery deadlines such that the Parties can complete the

1 depositions already noticed as follows:

- 2 1. Non-Expert Discovery Cutoff: February 17, 2012;
- 3 2. Expert Disclosures: March 2, 2012;
- 4 3. Disclosure of Rebuttal Experts: March 16, 2012;
- 5 4. Expert Discovery Cutoff: April 6, 2012;
- 6 5. Last day to hear motions: April 6, 2012;
- 7 6. Pretrial Conference: To Be Determined
- 8 7. Jury Trial: May 7, 2012

9 WHEREAS the hearing date for Defendant' motion would continue to be January 13,
10 2012.

11 WHEREAS, in the interest of judicial economy and in hopes that this matter will resolve
12 without the need for trial, the Parties seek to avoid unnecessary and costly trial preparation prior
13 to the conclusion of all settlement efforts.

14 WHEREAS, this is the Parties' first request for a trial continuance. No previous request
15 has been made.

16 **STIPULATION**

17 IT IS HEREBY STIPULATED AND AGREED TO BY AND BETWEEN THE
18 PARTIES by and through their respective counsel of record herein that the trial date be continued
19 and the discovery deadlines be continued such that the Parties may complete the depositions
20 already noticed:

- 21 1. Trial be continued to May 7, 2012;
- 22 2. The Pre-trial Conference be continued to a date in conformity to the new
23 trial date;
- 24 3. Non-Expert Discovery cutoff be continued to February 17, 2012;
- 25 4. The deadline for Expert Disclosures be continued to March 2, 2012;
- 26 5. Disclosure of Rebuttal Experts be continued to March 16, 2012;
- 27 6. Expert Discovery cutoff be continued to April 6, 2012;
- 28 7. The last day to hear motions be continued to April 6, 2012;

CERTIFICATE OF SERVICE

I certify that a copy of this document was served electronically on December 14, 2011, on counsel of record in compliance with Federal Rule 5, Local Rule 5.6 and General Order 45, by use of the Court's ECF system.

/s/ Rebecca K. Kimura

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