

1 GENESE K. DOPSON (SBN 108333)
 Email: Genese.Dopson@WilsonElser.com
 2 BETH FRUECHTENICHT ANEY (SBN 208847)
 Email: Beth.Aney@WilsonElser.com
 3 JENNIFER M. MILLIER (SBN 253814)
 Email: Jennifer.Millier@WilsonElser.com
 4 WILSON, ELSER, MOSKOWITZ,
 EDELMAN & DICKER LLP
 5 525 Market Street, 17th Floor
 San Francisco, California 94105
 6 Telephone: (415) 433-0990
 Facsimile: (415) 434-1370
 7
 8 Attorneys for Defendant
 ACUMED, LLC

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

12 RANDALL RAY MITCHELL,

13 Plaintiff,

14 v.

15 ACUMED, LLC, and DOES 1 through 100,
 16 inclusive,

17 Defendant.

) Case No.: C 11-00752 SC

) **STIPULATION TO CONTINUE TRIAL**
) **DATE AND RELATED PRETRIAL**
) **DEADLINES**

) Date: January 27, 2012
) Time: 10:00 a.m.
) Dept: Courtroom 1

) Trial Date: June 25, 2012

21 Plaintiff RANDALL RAY MITCHELL (“Plaintiff”) and defendant ACUMED, LLC
 22 (“Defendant”), hereby stipulate for an order to continue the trial date for one-hundred and twenty
 23 (120) days and to continue all related pretrial dates accordingly, for good cause as follows:

24 1. On August 26, 2011, this Court held a Status Conference in this matter.
 25 Thereafter, the Court ordered this case into private mediation and set a trial date for June 25,
 26 2012.

27 2. Since the filing of this action by Plaintiff, Defendant has been diligent in seeking
 28 discovery to prepare for mediation and trial. Upon removal of the action to this Court,

1 Defendant served the following written discovery on Plaintiff on September 21, 2011:
2 Interrogatories, Set One; Requests for Admission, Set One; Requests for Production, Set One;
3 and Requests for Production, Set Two. Defendant served a notice of deposition on Plaintiff on
4 October 7, 2011. Defendant also sought and Plaintiff agreed to submit to a medical examination.
5 Plaintiff has not provided responses to Defendant's written discovery requests. In addition,
6 Plaintiff did not appear for deposition or medical examination. (See the accompanying
7 Declaration of Jennifer M. Millier at ¶¶ 14-13.)

8 3. The parties have encountered numerous scheduling conflicts in attempting to
9 complete the above-described discovery in this matter. No depositions of any party or third-
10 parties have taken place as of the signing of this stipulation due to scheduling conflicts.

11 4. Plaintiff's counsel Mr. J. Frank George has been and is currently undergoing
12 medical treatment out of state for the past several months. Mr. George has been unavailable to
13 attend depositions and conduct discovery. (See the accompanying Declaration of J. Frank
14 George at ¶ 5.)

15 5. In addition to Mr. George's unavailability, Plaintiff availability has been impacted
16 due to the fact that he now resides in the state of Florida. (See the accompanying Declaration of
17 J. Frank George at ¶ 6.)

18 6. By no fault of its own and despite its reasonable and good faith efforts, Defendant
19 has been unable to obtain necessary discovery. Such discovery is essential for preparation and
20 evaluation of this case for mediation and trial. (See the accompanying Declaration of Jennifer
21 M. Millier at ¶¶ 28-29.)

22 7. This request for continuance of the trial date and all related pretrial deadlines is
23 not brought for the purpose of delay. The parties submit that good cause exists for granting the
24 requested continuance.

25 8. For these foregoing reasons, the parties hereby agree and stipulate to an order
26 continuing the current trial date of June 25, 2012 and all related pretrial deadlines for a period
27 not less than one-hundred and twenty (120) days. The parties respectfully request that the Court
28 continue the current trial date and all related pretrial deadlines as follows:

- 1 a. Expert witness disclosure: **July 25, 2012**
- 2 b. Discovery cut-off: **August 23, 2012**
- 3 c. Rebuttal expert witness disclosure: **August 24, 2012**
- 4 d. Last hearing date for motions: **August 31, 2012**
- 5 e. Pre-trial conference: **October 5, 2012**
- 6 f. Last court day before trial for defendant to serve (by mail, electronic or other
- 7 means) an offer of judgment on plaintiff: **October 8, 2012**
- 8 g. Serve and file trial briefs: **October 8, 2012**
- 9 h. Serve and file witness information: **October 8, 2012**
- 10 i. Serve and file statement designating excerpts from deposition transcripts,
- 11 responses to interrogatories, responses to requests for admission to be used at trial (other than for
- 12 impeachment or rebuttal): **October 8, 2012**
- 13 j. Exchange exhibit information: **October 8, 2012**
- 14 k. E-file with the court all of the following jury-related documents: **October 8, 2012**
- 15 i. All proposed jury voir dire questions;
- 16 ii. All proposed jury instructions and verdict forms, including standard
- 17 instructions, upon which the parties have agreed; and
- 18 iii. All proposed jury instructions and verdict forms which could not be
- 19 agreed upon and the corresponding ones proposed by opposing party.
- 20 l. Last court day to file any stipulated request or motion for order enlarging or
- 21 shortening time which affects trial: **October 8, 2012**
- 22 m. Last court day before trial for defendant to serve (by hand) an offer of judgment
- 23 on plaintiff: **October 8, 2012**
- 24 n. Motions in limine and/or objections to pre-trial disclosures (excerpts of deposition
- 25 transcripts/discovery responses and exhibits to be offered at trial): **October 12, 2012**
- 26 o. Oppositions to motions in limine and/or objections to pretrial disclosures:
- 27 **October 17, 2012**
- 28 p. Trial date: **October 22, 2012**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: December 16, 2011 LAW OFFICE O J. FRANK GEORGE

/s/ J. Frank George
By: _____
J. Frank George
Attorneys for Plaintiff
RANDALL RAY MITCHELL

DATED: December 21, 2011 WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

/s/ Beth Fruechtenicht Aney
By: _____
Genese K. Dopson
Beth Fruechtenicht Aney
Jennifer M. Millier
Attorneys for Defendant
ACUMED, LLC

