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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SETH D. HARRIS, Acting Secretary of the
United States Department of Labor,

Plaintiff,

vs.

DENNIS WEBB, MATTHEW FIDIAM,
J. ROBERT GALLUCCI, CONSULTING
FIDUCIARIES, INC., and THE PARROT
CELLULAR EMPLOYEES STOCK
OWNERSHIP PLAN,

Defendants.

Case No. CV-12-02055 EMC

**STIPULATED REQUEST AND
[PROPOSED] ORDER ALLOWING
CONTINUANCE OF SETTLEMENT
CONFERENCE WITH JUDGE LAPORTE,
AND CONTINUING HEARING DATES ON
PENDING MOTIONS AND CASE
MANAGEMENT CONFERENCE**
(Modified)

WHEREAS, on November 15, 2012, following the initial Case Management Conference in this action, this Court entered a Scheduling Order requiring the parties to complete either a private mediation or settlement conference with a magistrate judge within 120 days of the Order. *See* Dkt. # 72. In the same Scheduling Order, this Court set a further Case Management Conference for March 14, 2013 at 10:30 a.m. *Id.*

WHEREAS, on November 29, 2012, this Court referred this matter to U.S. Magistrate Judge LaPorte for a settlement conference and ordered the parties to complete the settlement conference within 120 days of the date of the referral. *See* Dkt. # 78. Magistrate Judge LaPorte initially set a settlement conference in the matter for February 27, 2013. *See* Dkt. # 85. On

STIPULATED REQUEST AND [PROPOSED] ORDER CONTINUING DATES; CV-12-02055 - EMC

February 11, 2013, Magistrate Judge LaPorte continued the settlement conference sua sponte from February 27, 2013 to June 21, 2013. *See* Dkt. # 88.

WHEREAS, the settlement of the action at the settlement conference would moot the need for hearings on the Secretary's Motions to Strike the Defendants' Affirmative Defenses [Dkt. ## 49, 74, 76] and on Defendants Fidiam's, Gallucci's, and the ESOP's Motion to Correct Order [Dkt. # 66] (collectively, "the Motions").

WHEREAS, on March 4, 2013, in order to conserve the Court's resources and the resources of the parties, the parties stipulated and requested that the Court enter an Order continuing the hearings on the Motions and continuing the Further Case Management Conference until a date after the settlement conference with Magistrate Judge LaPorte. Dkt. # 91. The stipulation noted that Defendant Webb "is unable to attend the settlement conference on June 21, 2013 and intends to request that the June 21, 2013 date be changed." *Id.* Defendant Webb remains unable to attend the settlement conference on June 21, 2013.

WHEREAS, on March 4, 2013, the Court granted the parties' stipulated request and entered an Order continuing the April 4, 2013 hearings on the Motions until July 25, 2013 at 1:30 p.m. and continuing the Further Case Management Conference set for March 14, 2013 until July 25, 2013. Dkt. # 91.

WHEREAS, the Court's Order also directed that the parties complete the settlement conference in this matter "on or before June 22, 2013 or as soon thereafter as Magistrate Judge LaPorte may reschedule the Settlement conference due to the unavailability of Defendant Webb on June 21, 2013." Dkt. # 91.

WHEREAS, based on the availability of all parties and Magistrate Judge LaPorte, the earliest date following June 21, 2013 that all parties are availability for a settlement conference with Judge LaPorte, is August 1, 2013.

WHEREAS, in the event Magistrate Judge LaPorte cannot schedule the settlement conference for August 1, 2013 or for another date during the week of July 29, 2013 agreeable to all parties, as a back up alternative the Parties have also reserved July 30, 2013 for private mediation with Mediator Judge Edward Infante (Ret.), which is the earliest date on which all Parties and

Mediator Infante are available for such mediation.

WHEREAS, the settlement of the action at the settlement conference or at private mediation would moot the need for hearings on the Motions.

WHEREFORE, in order to conserve the Court's and the parties' resources, the parties stipulate and request that the Court enter an order as follows:

1. The settlement conference with Judge LaPorte, currently scheduled for June 21, 2013, may be continued to August 1, 2013;
2. In the event Judge LaPorte is unable to reschedule the settlement conference for August 1, 2013 or on another mutually agreeable date during the week of July 29, 2013, the parties shall participate in a private mediation with Mediator Judge Edward Infante (Ret.) on July 30, 2013;
3. The hearings on the Motions [Dkt. ## 49, 74, 76, 66], currently scheduled for July 25, 2013 at 1:30 p.m., shall be continued to August 22, 2013 at 1:30 p.m., or such other time as convenient for the Court;
4. The Further Case Management Conference shall be continued from July 25, 2013 to August 22, 2013, or such other time as convenient for the Court, and shall follow the hearings on the above-described Motions; and
5. The parties shall file a Further Case Management Conference Statement on or before August 15, 2013.

DATED: April 3, 2013

TRUCKER ♦ HUSS

By: /s/R. Bradford Huss
R. BRADFORD HUSS
VIRGINIA PERKINS
Attorneys for Defendant
DENNIS WEBB

1 DATED: April 3, 2013

PLAN BENEFITS SECURITY DIVISION
OFFICE OF THE SOLICITOR
U.S. DEPARTMENT OF LABOR

3 By: /s/Glenn M. Loos
4 GLENN M. LOOS
5 ERIC C. LUND
6 Attorneys for Plaintiff
7 SETH D. HARRIS
8 Acting Secretary of the United States Department of
9 Labor

7 DATED: April 3, 2013

BAKER & McKENZIE LLP

8 By: /s/James P. Baker
9 JAMES P. BAKER
10 Attorneys for Defendant
11 MATHIEU FIDIAM, J. ROBERT GALLUCCI, AND
12 THE ESOP

12 DATED: April 3, 2013

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

14 By: /s/Donald P. Sullivan
15 RALPH W. ROBINSON
16 DONALD P. SULLIVAN
17 Attorneys for Defendant
18 CONSULTING FIDUCIARIES, INC.

17 I attest that my firm has obtained the concurrence of Glenn M. Loos, James P. Baker, and
18 Donald P. Sullivan in the filing of this document.

19 DATED: April 3, 2013

TRUCKER ♦ HUSS

20 By: /s/R. Bradford Huss
21 R. BRADFORD HUSS
22 VIRGINIA PERKINS
23 Attorneys for Defendant
24 DENNIS WEBB

[PROPOSED] ORDER

Based on the parties' above-stated representations, the parties' stipulation, and for good cause shown, it is hereby ordered:

1. The settlement conference with Judge LaPorte may be continued to August 1, 2013.
2. In the event Judge LaPorte is unable to reschedule the settlement conference for August 1, 2013 or on another mutually agreeable date during the week of July 29, 2013, the parties shall participate in a private mediation with Mediator Judge Edward Infante (Ret.) on July 30, 2013;
3. The hearings on the Motions [Dkt. ## 49, 74, 76, 66], currently scheduled for July 25, 2013 at 1:30 p.m., shall be continued to August 22, 2013 at 1:30 p.m.;
4. The Further Case Management Conference shall be continued from July 25, 2013 to August 22, 2013 and follow the hearings on the above-described Motions;
5. The parties shall file a Further Case Management Conference Statement on or before August 15, 2013; and
6. If the settlement conference with Judge LaPorte or private mediation with Mediator Infante does not occur the week of July 29, 2013, the stay in the case will end and the litigation will proceed without further delay.

4/9/13

DATED: _____

Edward M. Chen
United States District Court

