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14 *Attorneys for Plaintiff*

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

18 ARMANDO RODRIGUEZ, Individually and as
 19 the Heir of BONI SUE RODRIGUEZ, Deceased,

20 Plaintiff,

21 vs.

22 FRESENIUS MEDICAL CARE HOLDINGS,
 23 INC. d/b/a FRESENIUS MEDICAL CARE
 24 NORTH AMERICA, FRESENIUS USA, INC.,
 FRESENIUS USA MANUFACTURING, INC.,
 and FRESENIUS USA MARKETING, INC.

25 Defendants.
 26

Case No. 3:12-CV-06382-SI

**STIPULATED REQUEST TO MOVE
 INITIAL CASE MANAGEMENT
 CONFERENCE AND EXTEND
 DEFENDANTS' TIME TO ANSWER**

1 Pursuant to Civil Local Rule 6-2, the parties hereby submit their stipulated request to move the
2 initial case management conference scheduled for March 22, 2013, to April 26, 2013, and to extend
3 Defendants' time to answer from February 18, 2013, to April 19, 2013, for the following reasons:

4 1. This action is one of approximately 50 cases filed nationwide that involve all or a
5 material part of the same subject matter and all or substantially all of the same parties as this action;

6 2. A petition and several interested party responses have been filed with the Judicial Panel
7 on Multidistrict Litigation requesting that the federal cases be consolidated and transferred to a single
8 district court (*see* MDL 2428);

9 3. The parties anticipate that the MDL petition will be heard on March 21, 2013;

10 4. At least one other case related to this action has been filed in this district and additional
11 complaints are expected to be filed in the next few weeks, with administrative motions to relate the
12 additional cases to this action also anticipated for any cases not related upon assignment;

13 5. The Parties have conferred and share an interest in an efficient and economical approach
14 to managing this litigation. In that regard, the Parties believe moving the initial case management
15 conference to April 26, 2013, and extending Defendants' time to answer to April 19, 2013, would
16 prevent the expenditure of resources prior to the MDL decision and allow the Parties to continue to
17 organize the related cases filed in this District for efficient management. If an MDL is formed outside
18 of this District, the Court's and the Parties' resources would have been preserved, and if an MDL is
19 formed in this District or not at all, the Parties will be positioned to proceed here without significant
20 delay; and

21 6. The requested changes will not appreciably delay proceedings in this action and will
22 enable more efficient and economical management of the litigation.

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1 **IT IS SO STIPULATED AND REQUESTED.**

2 Dated: February 6, 2013

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4 By: /s/ Eric H. Gibbs

5 Eric Gibbs
6 Dylan Hughes
7 Amy M. Zeman
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20 *Attorneys for Plaintiff Armando Rodriguez*

By: /s/ Tamara Fraizer

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Care Holdings, Inc. d/b/a Fresenius Medical Care
North America; Fresenius USA, Inc.; Fresenius
USA Manufacturing, Inc.; and Fresenius USA
Marketing, Inc.*

24 **PURSUANT TO STIPULATION, IT IS SO ORDERED**

25
26 Dated: 2/7/13



27 Judge Susan Illston
28 United States District Judge

DECLARATION PURSUANT TO LOCAL RULE 5(1)(i)(3)

I attest that concurrence in the filing of this document has been obtained from the other signatories listed above.

Dated: February 6, 2013

By: /s/ Eric H. Gibbs
Eric H. Gibbs

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25 FRESENIUS USA MANUFACTURING, INC.,
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26 Defendants.
27
28

Case No. 3:12-CV-06382-SI

**DECLARATION OF ERIC H. GIBBS IN
SUPPORT OF STIPULATED REQUEST**

1 I, Eric H. Gibbs, hereby declare as follows:

2 1. I am a partner at Girard Gibbs LLP, counsel for Plaintiff Armando Rodriguez in this
3 action. I submit this declaration in support of the Parties' Stipulated Request to Move Initial Case
4 Management Conference and Extend Defendants' Time to Answer.

5 2. I am aware of approximately 50 lawsuits filed in state and federal courts around the
6 country that involve all or a material part of the same subject matter and all or substantially all of the
7 same parties as this action.

8 3. A petition and several interested party responses have been filed with the Judicial Panel
9 on Multidistrict Litigation requesting that the federal cases be consolidated and transferred for pretrial
10 proceedings (*see* MDL 2428). The petition will likely be heard on March 21, 2013.

11 4. My firm filed another case in this District related to the current action on February 4,
12 2013, *see* Case No. 3:13-CV-00489, and plans to file others shortly. I am also aware of anticipated
13 filings by other firms.

14 5. I have conferred with Defendants' counsel concerning an efficient and economical
15 approach to managing this litigation, and believe that moving the initial case management conference to
16 April 26, 2013, and extending Defendants' time to answer to April 19, 2013, would prevent the
17 expenditure of the Court's and Parties' resources prior to the MDL decision and allow the Parties to
18 continue to organize the related cases filed in this District for efficient management. If an MDL is
19 formed outside of this District, the Court's and the Parties' resources would have been preserved, and if
20 an MDL is formed in this District or not at all, the Parties will be positioned to proceed here without
21 significant delay. The requested changes will not appreciably delay proceedings in this action and will
22 enable more efficient and economical management of the litigation.

23 6. The Parties previously stipulated to extend Defendants' time to answer to February 18,
24 2013.

25 I declare under penalty of perjury that the foregoing facts are true and correct and that this
26 declaration was executed this 6th day of February 2013, in San Francisco, California.

27 /s/ Eric H. Gibbs

28 Eric H. Gibbs