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10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

12 RAUL G. TAGANAS,
 13
 14 Plaintiff,

Case No. 13-CV-00547-SC
STIPULATION AND ~~PROPOSED~~
ORDER] TO CONTINUE TRIAL AND
SOME RELATED DATES

15 v.

16 THE UNITED STATES OF AMERICA,
 17
 18 Defendants. _____/

19 **JOINT STIPULATION**

20 Plaintiff Raul Taganas has requested, and subject to the Court's approval,
 21 Defendant United States of America has stipulated, as follows:

- 22 1. Plaintiff is a merchant seaman, alleging that he suffered injuries on
 23 February 17, 2011, while in the service of a vessel owned by the United States.
- 24 2. Plaintiff thereafter commenced the above-referenced action on February 7,
 25 2013, alleging violations of the Jones Act and the General Maritime Law.
- 26 3. As of September 4, 2012, Plaintiff was declared Fit for Duty and deemed
 27 fit to return to work without restrictions concerning the incident relevant to this case.
 28 He subsequently returned to work on a privately owned and operated vessel (APL
 JAPAN) and sustained a work-related injury in April of 2013; the latter injury is
 unrelated to this case. In September of 2013, Plaintiff was declared Fit for Duty as a

1 result of the APL JAPAN incident, but has not yet returned to work due to the lack of
2 availability of work.

3 4. Plaintiff has an excellent chance to ship out during the first two weeks of
4 February for a four to six month period and would thus be unavailable for the currently
5 scheduled trial.

6 5. Additionally, Lyle C. Cavin, Jr., the undersigned, has been scheduled for
7 medical procedures for treatment of cancer commencing in early February, 2014. The
8 need for this treatment was recently learned in late December, 2013. This course of
9 treatment and convalescence will prevent him from working in any capacity for a
10 minimum of two-and-a-half months, perhaps longer depending upon post-intervention
11 testing. As such he will be unavailable for the currently scheduled trial date of
12 February 24, 2014.

13 6. Lyle C. Cavin, Jr. is lead counsel for plaintiff, and the only attorney
14 familiar with this case, capable of trying the matter on behalf of Plaintiff.

15 7. The parties have diligently pursued this case. To date, the parties have
16 exchanged Initial Disclosures, exchanged multiple rounds of discovery, deposed
17 plaintiff, disclosed experts, deposed most liability and economic experts, and deposed
18 percipient witnesses.

19 8. The parties hereby request a continuance of the February 24, 2014, trial
20 date due to the anticipated unavailability of Plaintiff for employment reasons and the
21 unavailability of Plaintiff's counsel for medical reasons.

22 9. Counsel for the United States is neutral as to the continuance due to
23 Plaintiff's re-employment considerations, but is fully and unconditionally supportive of
24 the request for a continuance due to Plaintiff's counsel's health and medical necessity.
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1 10. Federal Rule of Civil Procedure 16 (b) (4) allows a court to modify a
2 scheduling order "for good cause and with the judge's consent." In light of the
3 foregoing, good cause for a continuance exists. The parties hereby stipulate and
4 respectfully request that the Court grant a continuance of the February 24, 2014 trial
5 date to a mutually agreeable date that the Court is available after September 1, 2014.
6

7 11. Discovery has already closed and the parties do not wish to re-open it.

8 12. This is the first request for a continuance of the trial date in this action.

9 13. This stipulation and the requested continuance will not result in prejudice
10 to any party and its impact on judicial proceedings is not expected to be significant.

11 14. Nothing in this stipulation shall constitute a waiver of any arguments or
12 defenses that Plaintiff and Defendant may wish to assert in this action, all of which are
13 expressly reserved
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IT IS SO STIPULATED.

Dated: January 16, 2014

By: /s/ Lyle C. Cavin, Jr.
Lyle C. Cavin, Jr.
Attorneys for Plaintiff
RAUL TAGANAS

Dated: January 16, 2014

By: /s/ R. Michael Underhill
R. Michael Underhill
Attorneys for Defendant
UNITED STATES OF AMERICA

The filer of this document hereby attests that concurrence in the filing of this document has been obtained from each of the other signatories.

~~[PROPOSED]~~ ORDER]

The Court, having duly considered the parties' stipulation as set forth above, and good cause so appearing, hereby Orders:

The February 24, 2014 trial and certain related dates shall be continued as follows:

1. Last Day to Hear Dispositive Motions: 08/08/2014 at 10:00 a.m.
2. Pretrial Conference: 09/05/2014 at 10:00 a.m.
3. Trial Date: 09/08/2014 at 9:30 a.m.

IT IS SO ORDERED.

Dated: 01/21/2014

