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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION

4 LECG, LLC, a California limited
liability company,

5 Plaintiff,

6 v.

7 SANJAY UNNI, an Individual,

8 Defendant.

Case No. CV 13-00639 EMC

**STIPULATION TO RESET
CERTAIN DATES AND EXTEND
DISCOVERY ; ORDER**

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10 SANJAY UNNI, an Individual,

11 Counterclaimant,

12 v.

13 LECG, LLC, a California limited
liability company,

14 Counterdefendant.
15

16 Pursuant to Judge Chen’s Standing Order and L.R. 6, the parties hereby file a
17 Stipulation to (1) reset the deadline for initial expert disclosures from February 6 to
18 March 10, (2) extend the non-expert discovery cut-off from February 14 to
19 March 10; (3) extend the date for rebuttal reports from February 27, 2014 to
20 March 31, 2014; (4) extend the date for closure of expert discovery from March 20,
21 2014 to April 11, 2014; and (5) extend the date for a hearing on dispositive motions
22 from May 1, 2014 to May 19, 2014. The parties do not anticipate that the trial date
23 will be impacted. The purpose of this stipulation is to complete very limited
24 discovery– two fact depositions – the need for which has just come to light, and to
25 provide a new date to disclose expert opinions in light of information learned after
26 the expert disclosure cut-off date.
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1 **A. Background**

2 On September 27, 2013, this Court entered a Scheduling Order, ordering
3 completion of non-expert discovery by, and submission of opening expert reports on,
4 February 6, 2014. [Dckt. 40] Expert discovery cut-off was set for March 20, 2014.
5 *Id.* On January 11, 2014, the parties filed a stipulation to extend the non-expert
6 discovery cut-off date from February 6, 2014 to February 14, 2014 to accommodate
7 time constraints for deposition schedules for three fact witnesses. [Dckt. 49] This
8 Court entered an order approving the stipulated request on January 13, 2014 [Dckt.
9 50], and the parties timely completed the required fact witness depositions on
10 February 11, 2014. On February 10, 2014, Dr. Unni received, from a third party,
11 certain subpoenaed documents, which he asserts are highly relevant to his claims and
12 defenses. The parties were previously informed that documents responsive to the
13 subpoena could not be located. Dr. Unni asserts that the documents contain
14 information critical to the formation of an expert opinion and without that
15 information, Dr. Unni’s expert could not provide a complete opinion.

16 **1. Production of Deloitte & Touche (“Deloitte”) Documents**

17 Dr. Unni asserts that an important issue in the instant matter is the tax
18 treatment of certain monies Dr. Unni received while employed with Defendant
19 LECG. Dr. Unni asserted defenses and counterclaims related to this topic and sought
20 discovery on the issue. On September 23, 2013, Dr. Unni served a subpoena on
21 Deloitte & Touche, identified as LECG’s accountants, for documents relating to
22 corporate salary and board expense deductions for fiscal years 2007 and 2008, the
23 two years that Dr. Unni received the payments at issue. Though Deloitte did not
24 provide formal Rule 45 objections to the subpoena, on October 4, 2013, it sent a
25 letter outlining reasons why it would not produce responsive documents. The parties
26 attempted to meet and confer to resolve these issues, but after counsel for Dr. Unni
27 and counsel for Deloitte were unable to connect after several attempts by both sides,
28 the documents were sought from LECG. On November 12, 2013, Dr. Unni served his

1 Second Request for Production of Documents seeking this information. LECG
2 served timely objections to the request. The parties met and conferred on
3 December 17, 2013 and on Monday, December 23, 2013, LECG reported that it
4 searched for, but could not locate, responsive documents. Counsel for Dr. Unni then
5 re-commenced efforts to obtain the documents from Deloitte and, to that end, on
6 December 30, 2013: (a) had an initial meet and confer with Deloitte and (b) issued a
7 second subpoena for an oral deposition and production of documents. Between
8 December 30 and January 26, counsel for Dr. Unni, LECG and Deloitte engaged in
9 email and telephone communications regarding the existence and location of
10 responsive documents and/or a deponent. On January 27, 2014, Deloitte's counsel
11 confirmed by email that no documents responsive to the subpoena had been found
12 and therefore Deloitte would not produce a witness for the scheduled January 29,
13 2014 deposition date.

14 Dr. Unni asserts that on February 6, 2014, the date that expert disclosures were
15 required to be made, and unbeknownst to counsel for Dr. Unni, counsel for Deloitte
16 placed responsive documents in the U.S. mail and that, on February 10, 2014,
17 Dr. Unni received the Deloitte tax documents. Dr. Unni asserts that the documents
18 reflect what appear to be spreadsheets containing relevant information, but formatted
19 in an unreadable fashion. The parties conducted a meet and confer on February 12,
20 2014 and Dr. Unni's counsel is currently awaiting a response regarding Deloitte's
21 capability to produce the documents in a usable format.

22 Dr. Unni asserts that he has retained an expert to opine on the impact of the tax
23 treatment of payments made to Dr. Unni and that opinion is dependent on the
24 information contained and identified within these documents. Without the
25 information contained within the documents, Dr. Unni asserts that his expert was
26 unable to form a complete opinion and thus no opinion was disclosed on February 6.
27 Additionally, Dr. Unni seeks to take the deposition of Deloitte to ascertain
28 information regarding the documents.

1 **2. Identification of Additional Witness Carol Kerr**

2 On February 11, 2014, the deposition of LECG's Rule 30(b)(6) corporate
3 representative, Ms. Jan Call, took place. Dr. Unni asserts that until that deposition, he
4 did not understand that Ms. Carol Kerr (now known as Carol Osborn) had specific
5 knowledge and information regarding the tax treatment of the bonus monies at issue
6 in this matter. Thus, Dr. Unni seeks to depose Ms. Kerr.

7 **B. Prior Requests for Extension**

8 The parties have sought and received one extension of time in this manner to
9 extend non-expert discovery by one week to complete certain depositions, and those
10 depositions have been completed.

11 **C. Requested Dates**

12 As such, the parties stipulate to and request that the Scheduling Order in this
13 matter be modified as follows:

14 (1) reset the deadline for initial expert disclosures from February 6 to
15 March 10, to allow sufficient time (a) for Deloitte to provide the documents in a
16 usable form; (b) for Dr. Unni to depose Deloitte's person most knowledgeable
17 regarding the documents and (c) to then disclose their expert report;

18 (2) extend the non-expert discovery cut-off from February 14 to March 10 to
19 allow for the completion of the Deloitte deposition, and to allow Dr. Unni to depose
20 Ms. Kerr;

21 (3) extend the date for rebuttal reports from February 27, 2014 to March 31,
22 2014;

23 (4) extend the date for closure of expert discovery from March 20, 2014 to
24 April 11, 2014; and

25 (5) extend the date for hearing on dispositive motions from May 1, 2014 to
26 May 15, 2014.

27 The parties do not believe that this will impact the trial date currently set in
28 this matter.

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IT IS SO ORDERED.

Edward M. Chen
U.S. District Judge

