

1 LAW OFFICES OF MATTHEW J. WITTEMAN
 2 MATTHEW JOSEPH WITTEMAN (SBN 142472)
 3 711 Grand Avenue, Suite 130
 4 San Rafael, CA 94901
 5 Tel: 415.362.3106
 6 E-mail: mattjwitt@sbcglobal.net

7 Attorneys for Plaintiff
 8 LUEREAN VAN de STREEK

9 MORGAN, LEWIS & BOCKIUS LLP
 10 ROBERT JON HENDRICKS (SBN 179751)
 11 KATHERINE H. DICK (SBN 273688)
 12 One Market Street, Spear Street Tower
 13 San Francisco, CA 94105
 14 Tel: 415.442.1000
 15 Fax: 415.442.1001
 16 E-mail: rhendricks@morganlewis.com
 17 E-mail: kdick@morganlewis.com

18 Attorneys for Defendant
 19 NATIONAL RAILROAD PASSENGER
 20 CORPORATION d/b/a AMTRAK

21 UNITED STATES DISTRICT COURT
 22 NORTHERN DISTRICT OF CALIFORNIA

23 LUEREAN VAN de STREEK,
 24 Plaintiff,

25 vs.

26 NATIONAL RAILROAD PASSENGER
 27 CORPORATION, dba AMTRAK, and
 28 DOES 1-50
 Defendants.

Case No. 4:13-CV-02282-MMC

**JOINT STIPULATION AND
 [PROPOSED] ORDER OF DISMISSAL
 OF PLAINTIFF'S NINTH CLAIM FOR
 RELIEF WITH PREJUDICE**

AND ORDER THEREON

Complaint Filed: May 20, 2013
Trial: February 9, 2015

JOINT STIPULATION OF DISMISSAL OF
 PLAINTIFF'S NINTH CLAIM FOR RELIEF
 WITH PREJUDICE
 [FRCP 41(A)(1)(A)(II)]

1 Plaintiff Luerean Van de Streek (“Plaintiff”) and Defendant National Railroad Passenger
2 Corporation d/b/a Amtrak (“Defendant”) (collectively, the “Parties”) hereby stipulate, by and
3 through their respective counsel, as follows:

4 WHEREAS, Plaintiff’s Ninth Claim for Relief in Plaintiff’s First Amended Complaint
5 (“FAC”) is a claim for the intentional infliction of emotional distress;

6 WHEREAS, pursuant to Federal Rules of Civil Procedure (“FRCP”) Rule 41(a)(1)(A)(ii),
7 the Parties to this action stipulate to the dismissal of Plaintiff’s Ninth Claim for Relief with
8 prejudice, each party to bear their own costs and fees;

9 THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and through the
10 Parties’ respective counsel, as follows:

11 Plaintiff’s Ninth Claim of Relief for intentional infliction of emotional distress in
12 Plaintiff’s FAC is hereby dismissed with prejudice pursuant to FRCP Rule 41(a)(1)(A)(ii), each
13 party to bear their own costs and fees.

14 Plaintiff will limit her claim to the type of emotional distress, mental suffering, grief, and
15 anxiety that an otherwise healthy person could be expected to experience given her
16 circumstances, i.e., will not make a claim of a specific mental or psychiatric injury, and will not
17 offer expert testimony on the subject.

18 Defendant will not pursue a FRCP 35 psychiatric examination of plaintiff. If defendant
19 nevertheless attempts to offer expert testimony on plaintiff’s mental health or psychiatric

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injury, plaintiff may respond in kind.

IT IS SO STIPULATED.

Dated: February 28, 2014

LAW OFFICES OF MATTHEW J. WITTEMAN

By (s) Matthew Joseph Witteman
MATTHEW JOSEPH WITTEMAN

Attorneys for Plaintiff
LUEREAN VAN DE STREEK

Dated: February 28, 2014

MORGAN, LEWIS & BOCKIUS LLP

By: /s/ Katherine H. Dick
KATHERINE H. DICK

Attorneys for Defendant
NATIONAL RAILROAD PASSENGER
CORPORATION, dba AMTRAK

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[PROPOSED] ORDER

Pursuant to Plaintiff Luerean Van de Streek’s and Defendant National Railroad Passenger Corporation d/b/a Amtrak’s (collectively, “the Parties”) Joint Stipulation and for GOOD CAUSE appearing, the Joint Stipulation is approved. The Court hereby orders as follows:

Plaintiff’s Ninth Claim of Relief for intentional infliction of emotional distress in Plaintiff’s First Amended Complaint is hereby dismissed with prejudice pursuant to FRCP Rule 41(a)(1)(A)(ii), each party to bear their own costs and fees.

Plaintiff shall limit her claim to the type of emotional distress, mental suffering, grief, and anxiety that an otherwise healthy person could be expected to experience given her circumstances, i.e., will not make a claim of a specific mental or psychiatric injury, and will not offer expert testimony on the subject.

Defendant shall not pursue a FRCP 35 psychiatric examination of plaintiff. If defendant nevertheless attempts to offer expert testimony on plaintiff’s mental health or psychiatric injury, plaintiff may respond in kind.

IT IS SO ORDERED.

Dated: March 3, 2014

By: 
THE HON. MAXINE M. CHESNEY
UNITED STATES
SENIOR DISTRICT COURT JUDGE

JOINT STIPULATION OF DISMISSAL OF
PLAINTIFF’S NINTH CLAIM FOR RELIEF
WITH PREJUDICE
[FRCP 41(A)(1)(A)(II)]