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Benefits Plan

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 12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA,

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 15 JOHN F. KIRK,
 16 Plaintiff,
 17 v.
 18 LOCKHEED MARTIN GROUP
 BENEFITS PLAN NO. 594,
 19 Defendants.

Case No. 15-cv-00842 WHO
 STIPULATION AND
 ORDER
 CONTINUING CASE
 MANAGEMENT CONFERENCE TO
 HEARING DATE ON DEFENDANT'S
 MOTION TO DISMISS
 CURRENT DATE: July 16, 2015
 CURRENT TIME: 1:00 p.m.
 PROPOSED DATE: August 5, 2015
 PROPOSED TIME: 2:00 p.m.

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 23 Plaintiff John F. Kirk and Defendant Lockheed Martin Group Benefits Plan,
 24 by and through their counsel of record, jointly and respectfully request that the
 25 Court continue the scheduled Case Management Conference ("CMC") from July
 26 16, 2015, to August 5, 2015, the date on which Defendant's Motion to Dismiss is
 27 set to be heard. All parties have been served. The parties previously requested a
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1 continuance of the CMC when Defendant was served shortly before the originally
2 scheduled CMC set for June 2, 2015; the Court rescheduled the CMC to July 16th.

3 Good cause exists for the requested continuance. Plaintiff filed this action
4 under the Employee Retirement Income Security Act (“ERISA”), 29 U.S.C. §§1001
5 *et seq.* On June 29, 2015, Defendant filed a Motion to Dismiss based on lack of
6 subject matter jurisdiction due to payment of benefits and failure to exhaust
7 administrative remedies. Plaintiff’s Opposition is due on July 13th. The CMC is
8 currently scheduled for Thursday, July 16th at 1:00 p.m., which is before
9 Defendant’s July 20th deadline for filing a Reply Brief in support of its Motion to
10 Dismiss, and the Motion hearing on August 5th.

11 The parties believe that it would be a more effective use of time and
12 resources for the scheduling issues to be addressed with the Court, as necessary,
13 after the Court hears Defendant’s Motion on August 5th. The outcome of the
14 Motion may either (a) dispense with the need for setting dates, or (b) help guide the
15 parties and Court as to further scheduling matters. The parties will likewise be in a
16 better position to address the Court’s inquiries about the case after the Motion
17 hearing. The parties have already filed a Stipulation selecting mediation before the
18 ADR panel, which the Court has approved.

19 Accordingly, the parties respectfully request that the Court continue the
20 CMC scheduled for July 16, at 1:00 p.m. to August 5, 2015, at 2:00 p.m., when
21 Defendant’s Motion to Dismiss is set to be heard. The parties likewise request a

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1 continuance of the deadline for filing the Joint CMC Statement to one week before
2 any rescheduled Conference. A proposed ORDER is set forth below for the Court's
3 review and approval.

4 **IT IS SO STIPULATED.**

5 Dated: July 6, 2015

6 Respectfully submitted,

7 JULIAN M. BAUM & ASSOCIATES

8 By: /s/ Julian M. Baum

9 Julian M. Baum

Attorneys for Plaintiff John F. Kirk

10 Dated: July 6, 2015

11 Burke, Williams & Sorensen, LLP
12 Melissa M. Cowan

13 By: Melissa M. Cowan

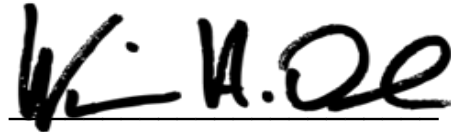
14 Melissa M. Cowan

15 Attorneys for Defendant Lockheed
16 Martin Group Benefits Plan

17 **ORDER**

18 The parties having stipulated as set forth above, IT IS ORDERED that the
19 Case Management Conference in this action is hereby continued from July 16, 2015
20 to August 5, 2015, at 2:00 p.m. The parties shall file their Joint Case Management
21 Conference Statement one week in advance of the rescheduled Conference.

22 Dated: July 7, 2015

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24 **WILLIAM H. ORRICK**
25 **UNITED STATES DISTRICT JUDGE**