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16 Attorneys for Defendants
17 UNITED AIRLINES, INC. and ROSSI THOMAS

18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA
20 SAN FRANCISCO DIVISION

21 TONIE HARRIS,

22 Plaintiff,

23 vs.

24 UNITED AIRLINES, ROSSI THOMAS, and
DOES 1-50,

25 Defendants.
26

Case No. 15-cv-02510-WHO

**STIPULATION TO FURTHER
CONTINUE ALL DATES and
PROPOSED ORDER**

**Trial Date: January 9, 2018
Time: 8:30 a.m.**

Complaint Filed: June 5, 2015

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1 This stipulation seeking a stay of this matter and a continuance of the trial date and all other
2 dates (“Stipulation”) is entered into by and between Plaintiff Tonie Harris (“Plaintiff”) and
3 Defendants United Airlines, Inc.(“United”) and Rossi Thomas (collectively “Defendants”),
4 (collectively, the “Parties”). By and through their respective counsel, the Parties jointly request that
5 the Court continue the January 9, 2018, trial date, and all other dates currently set in this matter
6 accordingly, based on the following:

7 1. Plaintiff filed her Second Amended Complaint in this matter on December 11, 2015
8 (“Lawsuit”).

9 2. Plaintiff has a parallel Workers’ Compensation matter pending before the California
10 Workers’ Compensation Appeals Board (“WCAB”), Case No. ADJ9378869 (“Workers’ Comp
11 Claim”).

12 3. On February 3, 2017, a settlement conference was held before Magistrate Judge
13 Donna M. Ryu (“Settlement Conference”) at which the Parties reached agreement to settle both the
14 Lawsuit and the Workers’ Comp Claim.

15 4. Because Plaintiff is entitled to Medicare benefits, the settlement of the Workers’
16 Comp Claim must be approved by the Centers for Medicare and Medicaid Services, a federal
17 government agency (“CMS”), with respect to the Medicare Set-Aside (“MSA”) allocation, and
18 thereafter must be approved by the WCAB.

19 5. On February 7, 2017, the Parties submitted to this Court a Stipulation and Proposed
20 Order to Continue and Stay All Dates Pending Approval of Settlement (Dkt. #65).

21 6. On February 10, 2017, this Court issued its Order granting the Parties’ request and
22 continuing, among other dates, the trial date to January 9, 2018 (Dkt. #66) (“Order”).

23 7. Promptly following the Settlement Conference, Ericka Dunn, attorney for Gallagher
24 Basset, the third party claims administrator for United’s workers’ compensation claims, began the
25 process of obtaining CMS approval of the MSA allocation agreed to at the Settlement Conference.
26 Specifically, Ms. Dunn oversaw the preparation and submission to ExamWorks Clinical Solutions
27 (“ECS”), a third-party vendor used by Gallagher Basset in managing submissions to the CMS, the
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1 documents required to commence the process of obtaining CMS approval. For almost three months,
2 Ms. Dunn worked diligently with ECS to correct mistakes in the Workers' Comp Claim record that
3 were discovered during the submission process, and to perfect the submission in all other respects.

4 8. On or about May 31, 2017, ECS submitted the proposed MSA allocation to the CMS
5 for approval.

6 9. On or about June 8, 2017, CMS responded to the submission by inquiring about one
7 aspect of the submission. Ms. Dunn oversaw the response to the CMS which was sent on June 30,
8 2017, providing the requested information.

9 10. To date, the CMS has not responded to the MSA submission that was perfected on
10 June 30, 2017. Ms. Dunn estimates that CMS' approval of the MSA will be received on or shortly
11 before August 15, 2017, but she cannot be certain inasmuch as the CMS is a federal government
12 agency over which neither the Parties nor Ms. Dunn has any control.

13 11. Promptly upon receiving the anticipated approval of the MSA from the CMS, the
14 Parties will submit the settlement to the WCAB for its approval, which is anticipated to be obtained
15 without delay.

16 12. In view of the foregoing, and in order to avoid incurring the expense of discovery
17 and preparing for a trial when the matter has been settled contingent only on the approval of the
18 CMS and the WCAB, the Parties respectfully request a continuance of the trial date to April 10,
19 2018, or a date thereafter convenient for the Court, and a like continuance of all other dates, as
20 outlined below.

21 IT IS THEREFORE STIPULATED by and among the Parties through their respective
22 counsel of record AND AGREED TO REQUEST THAT THE COURT ORDER that:

- 23 1. The trial date currently set for January 9, 2018, be continued to on or after April 10,
24 2018.
- 25 2. The Expert Disclosure Date be continued to on or after October 13, 2017.
- 26 3. The Expert Rebuttal Date be continued to on or after October 27, 2017.
- 27 4. The Fact Discovery Cutoff be continued to on or after November 1, 2017.
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- 1 5. The Expert Discovery Cutoff be continued to on or after November 20, 2017.
2 6. The deadline for Dispositive Motions to be heard be continued to on or after January
3 17, 2018.
4 7. The Pretrial Conference currently set for December 18, 2017, be continued to on or
5 after March 19, 2018.

6 DATED: July 12, 2017

MCCORMAC & ASSOCIATES

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By: /s/Kathleen A. McCormac
Kathleen A. McCormac
Attorneys for PLAINTIFF TONIE HARRIS

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9 DATED: July 12, 2017

LAW OFFICES OF MATTHEW J. WITTEMAN

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By: /s/Matthew J. Witteman
Matthew J. Witteman
Attorneys for PLAINTIFF TONIE HARRIS

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12 DATED: July 12, 2017

DAVIS WRIGHT & TREMAINE LLP

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By: /s/Judith Droz Keyes
Judith Droz Keyes
Attorneys for DEFENDANTS UNITED AIRLINES,
INC. and ROSSI THOMAS

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Signature Attestation Pursuant to LCR 5-1(i)(3)

I, Judith Droz Keyes, obtained permission from opposing counsel to electronically sign the Stipulation to Further Continue All Dates & Stay Matter Pending Approval of Settlement on their behalf on July 12, 2017.

DATED: July 12, 2017 By: /s/ Judith Droz Keyes

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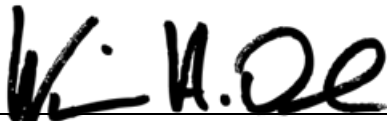
ORDER

The Parties' STIPULATION TO FURTHER CONTINUE ALL DATES is approved. The Court orders the following dates in this matter:

- Designation of Experts: October 13, 2017
- Designation of Rebuttal Experts October 27, 2017
- Non-Expert Discovery Cut-off: November 1, 2017
- Expert Discovery Cut-off: November 20, 2017
- Deadline to Hear Dispositive Motions: January 17, 2018
- Pretrial Conference: March 19, 2018
- Trial Date: April 23, 2018

IT IS SO ORDERED:

Dated: July 12, 2017



THE HONORABLE WILLIAM H. ORRICK III
UNITED STATES DISTRICT JUDGE