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13 **UNITED STATES DISTRICT COURT**
 14 **NORTHERN DISTRICT OF CALIFORNIA**

15 DANE SMITH, an individual,
 16 Plaintiff,
 17 v.
 18 VMWARE, INC., a Delaware corporation,
 19 Defendant.

CASE NO. 3:15-cv-03750-TEH

**JOINT STIPULATION TO CONTINUE THE
 MOTION TO COMPEL ARBITRATION
 HEARING AND CASE MANAGEMENT
 CONFERENCE; ~~PROPOSED ORDER~~**

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1 Pursuant to Civil L. R. 6-2, Plaintiff Dane Smith and Defendant VMware, Inc.
2 (collectively, the “Parties”) in the above captioned litigation respectfully request that the Court
3 change the date of both the hearing on Defendant’s Motion to Compel Arbitration (ECF No. 76)
4 and the Case Management Conference scheduled in this matter (*see* ECF No. 71).

5 On August 24, 2015, this case was reassigned to this Court. *See* ECF No. 65. On
6 September 2, 2015, the Court issued a Clerk’s Notice on Reassignment scheduling the Initial Case
7 Management Conference for November 23, 2015, and directing the parties to file their initial case
8 management statement on or before November 16, 2015. *See* ECF 71. Counsel for Defendant is
9 unavailable on November 23, 2015 due to a conflict with a previously scheduled matter that date.

10 On October 2, 2015, Defendant filed a Motion to Compel Arbitration in this matter, and set
11 the hearing for November 16, 2015. Counsel for Plaintiff will be travelling out of the state and is
12 unavailable that date.

13 Accordingly, the Parties therefore respectfully request that the Court enter an order setting
14 VMware’s Motion to Compel Arbitration for hearing on December 21, 2015 at 10:00 a.m. The
15 parties are available to have the initial case management conference conducted at the same time, if
16 the Court determines that is appropriate. Alternatively, the parties are available to discuss the
17 scheduling of a new CMC date at the hearing or upon the Court’s ruling on the Motion to Compel.
18 The Parties agree to file a joint case management statement at least seven days prior to the CMC
19 date set by the Court.

20 IT IS SO STIPULATED.

21 Dated: October 21, 2015

COTCHETT, PITRE & McCARTHY, LLP

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23 By: /s/ Eric J. Buescher
24 NIAL P. McCARTHY¹
25 JUSTIN T. BERGER
26 ERIC J. BUESCHER
27 SHAUNA R. MADISON

Attorneys for Plaintiff Dane Smith

28 (additional signatures on following page)

¹ Pursuant to Civil L. R. 5-1(i)(3), the filer of this stipulation attests that he has obtained concurrence in the filing of this document from each of the other signatories.

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Dated: October 21, 2015

LAW OFFICES OF JEFFREY F. RYAN

By: /s/ Jeffrey F. Ryan
JEFFREY F. RYAN

Attorneys for Plaintiff Dane Smith

Dated: October 21, 2015

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PROPOSED ORDER

Pursuant to the stipulation of the parties:

The November 16, 2015 hearing date on VMware's Motion to Compel Arbitration is vacated and rescheduled for December 21, 2015 at 10:00 a.m.; and,

The Case Management Conference scheduled for November 23 is hereby vacated. A Case Management Conference will be set at the hearing on December 21, 2015.

IT IS SO ORDERED AS MODIFIED.

Dated: 10/21/2015



Hon. Thelton E. Henderson