

1 LGI LLP
 2 BRADLEY A. PATTERSON, Esq. (State Bar No. 155482)
 3 18101 Von Karman Ave., Ste. 330
 4 Irvine CA 92612
 5 Telephone: (949) 253-0500
 6 Facsimile: (949) 253-0505

Attorney for Plaintiffs

7 JOSEPH P. RUSSONIELLO (CSBN 44332)
 8 United States Attorney
 9 THOMAS MOORE (ASBN 4305-T780)
 10 Assistant United States Attorney
 11 Chief, Tax Division
 12 CYNTHIA STIER (DCBN 423256)
 13 Assistant United States Attorney
 14 9th Floor Federal Building
 15 450 Golden Gate Avenue, Box 36055
 16 San Francisco, California 94102
 17 Telephone: (415) 436-7017
 18 Facsimile: (415) 436-6748

19 ROBERT J. HIGGINS (DCBN 242966)
 20 Trial Attorney, U.S. Department of Justice
 21 BART D. JEFFRESS (CT Juris No. 419184)
 22 Trial Attorney, U.S. Department of Justice
 23 555 4th St., N.W., Room 8816
 24 Washington, D.C. 20001
 25 Telephone: (202) 307-6580
 26 Facsimile: (202) 514-9440
 27 Email: robert.j.higgins@usdoj.gov

Attorneys for Defendant United States of America

28 UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

<p>21 AWS MANAGEMENT, LLC, by and 22 through MARY CHANDLER PETTY, a 23 Partner Other than the Tax Matters 24 Partner, 25 v. 26 UNITED STATES OF AMERICA, by and 27 through its Agent, the INTERNAL 28 REVENUE SERVICE, Defendant.</p>	<p>) Case No. 05-1056 CW) Consolidated with Case No. 05-1058 CW))) FOURTH STIPULATION AND) [PROPOSED] ORDER TO EXTEND) DISCOVERY SCHEDULE,) SETTLEMENT CONFERENCE, AND) TRIAL DATE</p>
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1 AWS ACQUISITIONS, LLC, by and)
 through MARY CHANDLER PETTY, a)
 2 Partner Other than the Tax Matters)
 Partner,)
 3)
 Plaintiff,)
 4 v.)
 5 UNITED STATES OF AMERICA, by and)
 through its Agent, the INTERNAL)
 6 REVENUE SERVICE,)
 7 Defendant.)
 _____)

8
 9 This stipulation is entered into by and between the plaintiffs and the defendant
 10 and is based on the following facts:

11 1. Plaintiffs have submitted a written settlement offer to defendant offering to
 12 settle all issues in this action. The Department of Justice, in concert with the Internal
 13 Revenue Service, is in the process of evaluating that settlement offer under its normal
 14 procedures.

15 2. On February 2, 2009, the parties filed a stipulation (Document 49):
 16 (i) notifying this Court that the parties were continuing to work towards settlement; and
 17 (ii) requesting that this Court continue discovery and trial deadlines to avoid the
 18 substantial expenditure of resources and effort attendant to defendant's intended course
 19 of discovery and to allow time for the Department of Justice to complete its evaluation of
 20 plaintiffs' offer and to finalize any settlement.

21 3. On February 4, 2009, this Court issued an order (Document 50) approving
 22 the stipulation to continue discovery and trial deadlines, and set the following revised
 23 calendar in this action:

- 24 Completion of Fact Discovery: June 15, 2009
- 25 Mandatory Settlement Conference on: July 17, 2009
- 26 Completion of Expert Discovery: October 16, 2009
- 27 Case-dispositive motions to be heard at 2:00 P.M. on: December 17, 2009
- 28 The pre-trial exchange between the parties will occur by: March 17, 2010

1 A pre-trial conference will be held on: April 20, 2010

2 A four-day Court Trial will begin at 8:30 A.M. on: May 10, 2010

3 4. Notice from the Court's Clerk (Document 51) set the Mandatory
4 Settlement Conference on June 23, 2009;

5 5. On June 4, 2009, the parties filed a stipulation (Document 52):

6 (i) notifying this Court that the parties were continuing to work towards settlement; and

7 (ii) requesting that this Court continue discovery and trial deadlines to avoid the

8 substantial expenditure of resources and effort attendant to defendant's intended course

9 of discovery and to allow time for the Department of Justice to complete its evaluation of

10 plaintiffs' offer and to finalize any settlement.

11 6. On June 10, 2009, this Court issued an order (Document 53) approving
12 the stipulation to continue discovery and trial deadlines, and set the following revised
13 calendar in this action:

14 Completion of Fact Discovery: on or before October 15, 2009

15 Mandatory Settlement Conference no later than: November 17, 2009

16 Completion of Expert Discovery: on or before February 16, 2010

17 Case-dispositive motions and a further case management conference:

18 2:00 P.M. on April 8, 2010

19 The pre-trial exchange between the parties: pursuant to Court's Order for

20 Pretrial Preparation

21 A pre-trial conference on: October 26, 2010 at 2:00 P.M.

22 A four-day Court Trial beginning at 8:30 A.M. on: November 15, 2010

23 7. Following the request of the parties (Document 55), the Court entered an
24 Order (Document 56) re-assigning this case to a Magistrate Judge. On July 15, 2009,
25 the case was so re-assigned, and, on July 16, 2009, Chief United States Magistrate
26 Judge Maria-Elena James entered an Order (Document 57) scheduling a settlement
27 conference for October 5, 2009, at 2:00 p.m. in Magistrate James' chambers.

28 8. All parties continue to believe that settlement is likely and continue to work

1 diligently towards a final action by the Department of Justice on plaintiffs' offer to settle
2 all issues in this case. Settlement efforts are continuing and there has been no
3 breakdown of communications and no impasse has arisen.

4 9. The parties appreciate the Court's patience as the parties work to finalize
5 the settlement. The parties believe that requiring the parties to prepare for trial would
6 be counterproductive to reaching a settlement in this action.

7 10. Based on the facts presented, the plaintiffs and the defendant request an
8 extension of an additional four months for each of the existing deadlines.

9 Respectfully Submitted,

10 FOR THE PLAINTIFFS

11 LGI LLP
12 Bradley A. Patterson, Esq.

13 Date: September 17, 2009

14 By s/Bradley A. Patterson
15 Bradley A. Patterson
16 Attorney for Plaintiffs

17 FOR THE UNITED STATES

18 UNITED STATES ATTORNEY
19 Joseph P. Russoniello , Esq.
20 Thomas Moore, Esq.
21 Cynthia Stier, Esq.
22 Robert J. Higgins, Esq.
23 Bart D. Jeffress, Esq.

24 Date: September 17, 2009

25 By s/Robert J. Higgins
26 Robert J. Higgins
27 Attorneys for Defendant
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ORDER

Based on the facts and stipulation set forth above,

IT IS ORDERED:

- 1. Fact Discovery shall be completed on or before: February 15, 2010;
- 2. A Mandatory Settlement Conference shall be conducted before Magistrate Judge Maria-Elena James no later than March 17, 2010, at the convenience of Magistrate James' calendar;
- 3. Expert Discovery shall be completed on or before: June 16, 2010;
- 4. All case-dispositive motions and a further case management conference shall be heard at 2:00 P.M. on August 12, 2010;
- 5. The pre-trial exchange between the parties shall occur in accordance with the Court's Order for Pretrial Preparation.
- 6. A pre-trial conference will be held on: February 22, 2011, at 2:00 P.M.;
- and
- 7. A four-day Court Trial will begin at 8:30 A.M. on: March 14, 2011.

Date: September 18, 2009



The Honorable Claudia Wilken
United States District Court Judge