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7
8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10
11 **EQUAL EMPLOYMENT**
OPPORTUNITY COMMISSION,

12 **Plaintiff,**

13 **v.**

14 **JOHN MUIR HEALTH,**

15 **Defendant.**

CIVIL ACTION NO. 08-02634 PJH

**STIPULATED REQUEST FOR
CONTINUANCE OF DISCOVERY
DEADLINES AND TRIAL CALENDAR AND
FOR LEAVE TO EXCEED THE LIMIT ON
DEPOSITIONS; [~~PROPOSED~~] ORDER**

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18 Plaintiff Equal Employment Opportunity Commission (“EEOC”), and Defendant John Muir
19 Health hereby jointly request that this Court issue an Order continuing the discovery deadlines and
20 trial calendar for this case for not less than 120 days. The parties also request leave of court to
21 exceed the limit on the number of depositions they can take.

22 **Continuance of Discovery and Trial Deadlines**

23 Pursuant to this Court’s order of September 15, 2008 (*see* Docket No. 17), the Parties
24 attended a mediation before court-appointed mediator, Brad Seligman on May 5, 2009 (the
25 mediation was originally set for March 20, 2009 but was continued at the request of the mediator).
26 Prior to the mediation, the parties diligently engaged in targeted discovery including the exchange of
27 initial disclosures, written discovery and seven depositions in an effort to gather sufficient
28 information to have fruitful and good faith settlement discussions. The parties agreed to limit the

**Stipulated Request for Continuance of
Deadlines**
Civ. No. 08-02634 PJH

1 depositions prior to the mediation to those they deemed critical to the settlement discussions in order
2 to minimize the costs in both time and in money in an effort to enhance the possibility of settlement.
3 Despite good faith efforts on both sides, the parties' efforts to settle the case were not successful.
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5 At this point, the parties have identified nearly 30 additional witnesses who will need to be
6 deposed and whose transcripts will need to be available for review by their experts. The expert
7 witness disclosure deadline is currently September 1, 2009. The parties recognize that it will be
8 extremely challenging to coordinate their schedules with the schedules of witnesses prior to the
9 deadline. Moreover, meeting the current deadline will impose an undue burden on the parties'
10 respective expert witnesses.

11 Neither the EEOC nor John Muir has sought to delay this case. To the contrary, both parties
12 have made every effort to exchange discovery and calendar depositions in a timely and cost efficient
13 manner. Based on the foregoing, the parties respectfully request that all deadlines in the current
14 scheduling order be extended by 120 days, as set forth in the proposed order.

15 **Depositions**

16 The parties also seek an order pursuant to Federal Rule 26(b)(2) permitting each party to take
17 more than ten depositions. The EEOC filed this case pursuant to the Americans with Disabilities
18 Act alleging that Defendant had failed to hire several applicants in violation of the statute. Through
19 the EEOC's administrative investigation and Defendant's responses to interrogatories, there are
20 currently ten potential claimants for this case: Defendant needs to depose each of the claimants and
21 their treating physicians. In addition, Defendant has identified 20 percipient witnesses through its
22 Initial Disclosures and Interrogatory responses: the EEOC needs to depose each of these witnesses in
23 addition to those witnesses produced by Defendant for a Rule 30(b)(6) examination. In light of the
24 above, the parties believe they have a good faith basis for seeking leave of court to exceed the
25 limitation on depositions and ask for the court to allow the parties to depose all witnesses named as

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1 “persons with knowledge” in the Initial Disclosures or in discovery responses and reasonable follow-
2 up witnesses, if any.

3 Respectfully Submitted,

4 Dated: July 2, 2009 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

6 By: /s/ Marcia L. Mitchell
7 MARCIA L. MITCHELL
8 Attorney for Plaintiff
9 EQUAL EMPLOYMENT OPPORTUNITY
10 COMMISSION

9 Dated: July 2, 2009 MUSICK, PEELER & GARRETT, LLP

10 By: /s/ Adam L. Johnson
11 DAVID M. LESTER
12 ADAM L. JOHNSON
13 Attorneys for Defendant
14 JOHN MUIR HEALTH

14 E-filing concurrence: I, Marcia L. Mitchell, attorney for Plaintiff EEOC, attest that I have
15 obtained the concurrence of Adam Johnson and David Lester, attorneys for defendant John Muir
16 Health, for the filing of the instant pleading.

17 Dated: July 2, 2009

18 /S/ Marcia L. Mitchell
19 MARCIA L. MITCHELL
20 Senior Trial Attorney

PROPOSED] ORDER

For good cause shown and pursuant to the Stipulation of the Parties it is hereby ordered that all discovery deadlines and the trial date shall be continued for 120 days.

It is further ordered that the parties' request for leave of court to exceed the limit on depositions is granted. The parties are entitled to depose those witnesses identified in Initial Disclosures and/or discovery responses as "persons with knowledge" of facts related to the litigation and reasonable follow-up witnesses, if any.

IT IS SO ORDERED.

Dated: 7/7/09

PHYLLIS J. HAMILTON
United States District Court

