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Attorneys for Plaintiffs,  
JOHANNA FORMAN and KENNETH SANDERS

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOHANNA FORMAN, and KENNETH SANDERS on behalf of the Bankruptcy Estate of Gary Morris,	)	Case No. 4:08-CV-04729 CW
Plaintiffs,	)	STIPULATION AND <del>PROPOSED</del>
v.	)	ORDER CONTINUING THE LAST
NAVIGATORS INSURANCE COMPANY,	)	DAY TO COMPLETE PRIVATE
Defendant.	)	MEDIATION

**STIPULATION**

Plaintiffs Johanna Forman and Kenneth Sanders ("Plaintiffs"), and Defendant Navigators Insurance Company ("Navigators"), by and through their respective counsel of record, hereby stipulate and agree to the following:

- Whereas, this Court's February 6, 2009 Case Management Order referred the parties to private mediation to be completed by May 4, 2009.

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2. Whereas, Plaintiffs and Defendant have begun discovery and are engaged in a discovery dispute in which Navigators contends large portions of its claim file and the file of underlying defense counsel for Gary Morris are privileged by attorney client and/or work product privileges. Plaintiffs contend that those documents are not privileged, or that the privilege was waived by Plaintiff Kenneth Sanders, Trustee for the Morris Bankruptcy estate.

3. Whereas, the parties having met and conferred, Plaintiffs anticipate filing a Motion to Compel with respect to the production of these documents. Plaintiffs will also seek further responses to Defendant's initial responses to Plaintiffs' Requests for Admissions pertaining to whether or not Navigators intends to use certain defenses at trial and any factual basis for those defenses.

4. Whereas, Plaintiffs contend that they are prejudiced by their inability to fully and thoroughly examine the underlying documents pertaining to Navigators' conduct in the underlying action. Plaintiffs further contend that a complete assessment and evaluation of the matter cannot be completed unless and until the discovery dispute is resolved and that a mediation is premature at this stage.

5. Whereas, Defendant intends to promptly file its Motion for Summary Judgment on the legal issue of the effect of its insured's discharge in bankruptcy before the commencement of the trial of the underlying action on Plaintiffs' claims of damages by reason of the subsequent entry of a judgment in excess of Defendant's policy limit.

6. Defendant believes that any mediation before that issue is ruled upon would render mediation premature as well as ineffective.

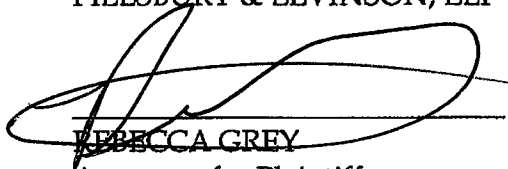
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7. Therefore, the parties request that this Court's deadline to complete private mediation be extended to July 6, 2009.

DATED: April 17, 2009

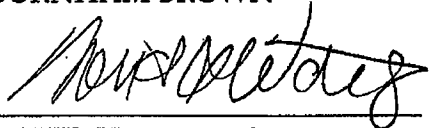
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REBECCA GREY  
Attorneys for Plaintiffs,  
JOHANNA FORMAN and  
KENNETH SANDERS

DATED: April 17, 2009

BURNHAM BROWN



DAVID H. WATERS  
Attorneys for Defendant,  
NAVIGATORS INSURANCE COMPANY

~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.



DATED: April 23, 2009

Hon. Claudia Wilken  
United States District Court

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