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15 Attorneys for Plaintiff
 16 CAROL FURTADO

17 **UNITED STATES DISTRICT COURT**
 18 **NORTHERN DISTRICT OF CALIFORNIA**
 19 **OAKLAND DIVISION**

20 CAROL FURTADO,

21 PLAINTIFF,

22 v.

23 UNITED RENTALS, INC., a Delaware
 24 Corporation; RSC EQUIPMENT RENTALS,
 25 INC., an Arizona Corporation; severally and as
 26 joint employers; and DOES 1 through 50,
 27 inclusive,

28 Defendants.

Case No. 14-cv-04258-YGR

**PLAINTIFF'S RESPONSE TO OBJECTIONS
 TO UNTIMELY MOTION FOR PARTIAL
 SUMMARY JUDGMENT.**

Date: November 17, 2015

Time: 2:00 p.m.

Place: Courtroom 1, 4th Floor

COMPLAINT FILED: Feb. 10, 2014

TRIAL DATE: Sept. 26, 2016.

Plaintiff's motion for partial summary judgment was due to be filed by midnight on Friday, September 25, 2015. Plaintiff filed her motion at 1:25 a.m. on Monday, September 28, 2015.

The motion was filed late because Plaintiff's counsel fell and sustained a concussion, diagnosed on September 21, 2015. As a result, Plaintiff's counsel had difficulty with fatigue, concentration, and limited vision (black, swollen left eye and double vision in the right eye). Defense counsel Alexa

1 Woerner can corroborate Plaintiff's goose-egg and black eye, because they were embarrassingly obvious
2 when Plaintiff's counsel defended Plaintiff's deposition on September 18, 2015. Despite her injuries,
3 Plaintiff's counsel still thought she could meet the September 25, 2015 filing deadline. She did not take
4 into account the effect of her injuries on her ability to do quality work.

5 Plaintiff's counsel emailed defense counsel with a proposed stipulation designed to impose an
6 appropriate sanction on Plaintiff and to avoid prejudice to both defendants and the court. Instead of
7 striking the late filed pleading, which would cause extreme prejudice to Plaintiff, she proposed a
8 modification of the briefing schedule to deduct two (or three) days from Plaintiff's time and use it to
9 enlarge Defendants' time. Accordingly, the motion schedule would be modified as follows:

10 Defendants' Opposition to Motion and Cross-Motion for Summary Judgment deadline changed
11 from 10/9/15 to 10/12/15.

12 Plaintiff's Reply and Opposition to Cross-Motion deadline changed from 10/23/15 to 10/20/15.

13 Defendants' Reply in support of Cross-Motion remains the same at 10/30/15.

14 Hearing on Motions remains the same at 11/17/15 at 2:00 p.m.

15 Plaintiff believes that Defendants will be unable to raise issues of material fact in opposition to
16 her motion for partial summary judgment. If the Court allows Plaintiff's motion for partial summary
17 judgment to stand, all the parties and the Court will ultimately benefit through the significant narrowing
18 of the issues for trial, pursuant to either Federal Rules of Civil Procedure 56(a) or (56f). Accordingly,
19 the Court will be able to conduct trial more efficiently, and the parties will save time, money and effort
20 by focusing on the few remaining issues or perhaps the matter can be settled.

21 Date: September 30, 2015.

22 By: _____/S/
23 Joan Herrington
24 Attorney for Plaintiff

25 **PROPOSED ORDER**

26 Good cause appearing, the briefing schedule on the parties' cross-motions for summary
27 judgment is modified as follows:

28 Defendants' Opposition to Motion and Cross-Motion for Summary Judgment deadline changed

1 from 10/9/15 to 10/12/15.

2 Plaintiff's Reply and Opposition to Cross-Motion deadline changed from 10/23/15 to 10/20/15.

3 Defendants' Reply in support of Cross-Motion remains the same at 10/30/15.

4 Hearing on Motions remains the same at 11/17/15 at 2:00 p.m.

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6 DATED: October 2, 2015

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United States District Judge

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