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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

14 RICHARD B. FOX, M.D.,)

No. 04-CV-00874 RS

15 Plaintiff,)

No. 08-CV-01098 RS

16 vs.)

STIPULATION AND REQUEST FOR
ORDER CHANGING TIME AND
17 ~~PROPOSED~~ ORDER

18 GOOD SAMARITAN HOSPITAL L.P.,
GOOD SAMARITAN L.L.C., GOOD
SAMARITAN HOSPITAL MEDICAL
19 STAFF, and HCA, INC.)

Civil Local Rule 6-2 and 7-12

20 Defendants.)

Date: N/A

Time: N/A

Place: Courtroom 4

Judge: Hon. Richard Seeborg

21 RICHARD B. FOX, M.D.,)

22 Plaintiff,)

23 vs.)

24 WILLIAM PICHÉ, PAUL N. BEAUPRE,
ARTHUR W. DOUVILLE, M.D., MARK S.
25 MCCONNELL, M.D., AND KENNETH I.
TAN, M.D.;)

26 Defendants.)

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28 Stipulation and Request for
Order Changing Time

Case No. 04-CV-00874 RS and 08-CV-01098 RS
Fox v. Good Samaritan Hospital, et al.
Fox v. Piche, et al.

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Stipulation and Request for
Order Changing Time

Case No. 04-CV-00874 RS and 08-CV-01098 RS
Fox v. Good Samaritan Hospital, et al.
Fox v. Piche, et al.

1 All parties to this action, through their respective counsel, hereby stipulate and request,
2 pursuant to stipulation under Civil Local Rule 6-2 and Civil Local Rule 7-12, that the Court enter
3 an order changing time for certain pretrial dates already fixed by the Court. The changing of these
4 dates will not change the date for pretrial motions, pretrial statements, the final pretrial conference
5 or the trial date, now set for May 3, 2010. The changing of these dates will facilitate the parties
6 completing non-expert and expert discovery.

7 The following background, supported, in compliance with Civil Local Rule 6-2, by the
8 Declaration of James A. Hennefer filed herewith, explains the reasons for the requested change of
9 dates, previous time modifications in the past and the effect the requested time modifications
10 would have on the schedule for the cases.

11 Procedural Background The original case, *Fox v. Good Samaritan Hospital, et al.*, No. 04-
12 CV-00874 (“*Fox I*”), was filed March 4, 2004. The subsequent case, *Fox v. Piché, et al.* (“*Fox*
13 *II*”), was filed February 18, 2008. On May 20, 2009 the Court entered its order on the parties’
14 stipulation for “the coordination of discovery in these two actions.” (Doc. No. 286, *Fox I*) On the
15 same date the Court entered its order setting the following dates (Doc. No. 285, *Fox I*):

16 July 15, 2009	Exchange of Rule 26 Disclosures and File 17 Joint Discovery Plan
18 November 2, 2009	Completion of Non-Expert Discovery
19 November 16, 2009	Disclosure of Plaintiff’s Expert Testimony and Reports
20 November 30, 2009	Disclosure of Defendants’ Expert Testimony 21 and Reports
22 February 1, 2010	Completion of Discovery for Expert 23 Witnesses
24 March 22, 2010	Joint Pretrial Statement
25 April 5, 2010	Final Pretrial Conference
26 May 3, 2010	Trial

1 *Fox I* and *Fox II* were consolidated “for all purposes” by order of the Court on August 25,
2 2009. (Doc. No. 296, *Fox I*)

3 By written stipulation, signed by counsel for all parties to these actions, the parties, subject
4 to the Court’s approval, have agreed to modify the discovery dates as indicated below, with the
5 new stipulated dates in [brackets] and in **bold face type**.

6 July 15, 2009	Exchange of Rule 26 Disclosures and File Joint Discovery Plan
7	
8 November 2, 2009 [December 15, 2009]	Completion of Non-Expert Discovery
9	
10 November 16, 2009 [January 8, 2010]	Disclosure of Plaintiff’s Expert Testimony and Reports
11	
12 November 30, 2009 [January 22, 2010]	Disclosure of Defendants’ Expert Testimony and Reports
13	
14 February 1, 2010 [February 15, 2010]	Completion of Discovery for Expert Witnesses
15	
16 March 22, 2010	Joint Pretrial Statement
17	
18 April 5, 2010	Final Pretrial Conference
19	
20 May 3, 2010	Trial

21 Reasons for the Requested Change The consolidated cases involve nine defendants and
22 the allegations and discovery concern an extended period of time. The pleadings in the cases were
23 not settled until 2009. Rule 26 disclosures were not exchanged as to *Fox II* until July 15, 2009.
24 Many of the deponents are doctors whose schedules have to be accommodated in setting
25 depositions. There are counsel for six (6) law firms involved. There are multiple expert
26 witnesses on liability and damages. The final non-expert discovery, expert reports and expert
27 discovery spans the Thanksgiving and Christmas holidays. The adjustments stipulated to and
28 requested of the Court, accounting for these and other factors, yet keeping the final pre-trial dates
and trial date, were considered by counsel to be fair and reasonable.

1 Previous Time Modifications in the Past While there have been many modifications of
2 time in *Fox I*, as to both pretrial and trial dates,¹ this is the first time modification sought for these
3 pretrial dates in the consolidated actions or for *Fox II*. There has been no modification of the trial
4 date for the consolidated actions and none is sought in this application to the Court.

5 Effect of the Modification on the Schedule for the Case The modifications of time sought
6 for pretrial and expert discovery would not affect the final pretrial dates set on May 20, 2009 by
7 the Court, and will not affect the trial date of May 3, 2010.

8 For the foregoing reasons, it is requested that the Court order the stipulated request for
9 time changes sought by this application and set the following new dates.

11	December 15, 2009	Completion of Non-Expert Discovery
12	January 8, 2010	Disclosure of Plaintiff's Expert Testimony and Reports
13		
14	January 22, 2010	Disclosure of Defendants' Expert Testimony and Reports
15		
16	February 15, 2010	Completion of Discovery for Expert Witnesses

17
18 So stipulated and respectfully submitted:

19
20 Dated: October 27, 2009

HENNEFER, FINLEY & WOOD, LLP

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22 By: /s/ James A. Hennefer
 JAMES A. HENNEFER

23 Attorneys for Plaintiff Richard B. Fox, M.D.

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27 ¹ See, Doc. Nos. 105, 144, 147 and 166 in *Fox I*.

1 Dated: October 27, 2009

SHANNON, MARTIN, FINKELSTEIN & ALVARADO, P.C.

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By: /s/George A. Shannon, Jr.
 GEORGE A. SHANNON, JR.

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Attorneys for Defendant HCA, Inc.

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7 Dated: October 27, 2009

ROPES & GRAY LLP

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By: /s/ Thad A. Davis
 THAD A. DAVIS

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Attorneys for All Defendants

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12 Dated: October 27, 2009

HARDY ERICH BROWN & WILSON

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By: /s/ David L. Perrault
 DAVID L. PERRAULT

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Attorneys for All Defendants

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~~PROPOSED~~ ORDER

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

20

21 Dated October 29, 2009

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Judge Richard Seeborg
United States ~~District Court~~ Judge
Magistrate

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Stipulation and Request for
Order Changing Time

Case No. 04-CV-00874 RS and 08-CV-01098 RS
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1 **CERTIFICATION BY JAMES A. HENNEFER PURSUANT TO NORTHERN DISTRICT**
2 **OF CALIFORNIA GENERAL RULE NO. 45, SECTION X REGARDING E-FILING ON**
3 **BEHALF OF MULTIPLE SIGNATORIES**

3 I, JAMES A. HENNEFER declare:

4 1. I am an attorney at law licensed to practice law before all of the courts of the State
5 of California and am admitted to practice law in the United States District Court for the Northern
6 District of California.

7 2. I am a partner in the law firm of Hennefer, Finley & Wood, LLC, attorneys for
8 plaintiff Richard B. Fox, M.D. in the above-captioned actions..

9 3. I have been and am the principal attorney acting as counsel for plaintiff Richard B.
10 Fox, M.D. in these actions and thereby have personal knowledge of the following facts. If called
11 to testify to these matters, I could and would competently testify to the following.

12 4. The above document contains multiple signatures. Concurrence has been obtained
13 from each of the other signatories to file this document with the court. Pursuant to Northern
14 District of California General Order 45(X), I will maintain records that support the concurrence of
15 each of the other signatories to file this document with the court for subsequent production to the
16 Court, of so ordered, and for inspection upon request by a party, until one year after final
17 resolution of the action (including appeal, if any).

18 5. I declare under penalty of perjury pursuant to the laws of the State of California
19 that the foregoing is true and correct. Executed under penalty of perjury, this 26rd day of October
20 2009 at San Francisco California.

21 _____
22 /s/ James A. Hennefer

23 _____
24 JAMES A. HENNEFER