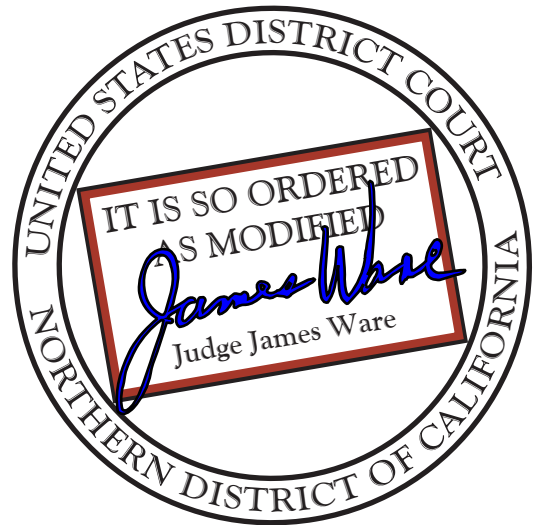


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7 Attorneys for CHARLES D. LEE, JR., M.D.
 8 (additional counsel on signature page)

9 **UNITED STATES DISTRICT COURT**
 10 **NORTHERN DISTRICT OF CALIFORNIA**
 11 **SAN JOSE DIVISION**

13 PIERRE LEBON HOFFMAN,
 14 Plaintiff,
 15 v.
 16 DR. CHARLES LEE,
 17 Defendant.

Case No. C 06-02248 JW (PR)

STIPULATION AND [PROPOSED] ORDER TO EXTEND HEARING DATE ON DEFENDANT'S MOTION FOR SUMMARY JUDGMENT PURSUANT TO LOCAL RULE 7-7(a)

Judge: Honorable James Ware

19 **STIPULATION**

20 Pursuant to Civil Local Rule 7-7(a), Defendant Charles D. Lee, M.D. and Plaintiff Pierre
 21 Lebon Hoffman, by and through their respective counsel of record, stipulate and agree as follows:

22 WHEREAS, no trial date is currently set in this case;

23 WHEREAS, the hearing date on Defendant's motion for summary judgment is currently
 24 scheduled for June 15, 2009;

25 WHEREAS, Plaintiff's deadline for filing an opposition to Defendant's motion for
 26 summary judgment has not yet lapsed;

27 WHEREAS, Plaintiff has not yet filed an opposition to Defendant's motion to summary
 28 judgment;

1 WHEREAS, Defendant and third party witnesses continue to produce documents
2 responsive to Plaintiff's discovery requests, and recent deposition testimony has indicated that
3 Defendant and other third parties may have additional responsive documents that have not yet
4 been produced;

5 WHEREAS, despite Plaintiff's repeated efforts to obtain their testimony, two critical third
6 party witnesses with percipient knowledge of the facts of this case have ignored properly served
7 subpoenas and/or evaded service throughout the discovery period, which has impaired Plaintiff's
8 ability to obtain key discovery, one of them having been deposed only yesterday in Los Angeles,
9 and the other having evaded multiple daily attempts at service at home, at her former place of
10 business and at her newly-discovered place of business;

11 WHEREAS, the documents that are currently being produced, and the depositions of the
12 witnesses who have been evading service, are vital to Plaintiff's ability to satisfactorily respond to
13 Defendant's motion for summary judgment;

14 WHEREAS, extending the hearing date on Defendant's motion for summary judgment by
15 three weeks will not alter any other court dates set in this matter;

16 NOW, THEREFORE, THE PARTIES AGREE AND STIPULATE as follows:

17 1. The hearing date on Defendant's motion for summary judgment shall be extended
18 from June 15, 2009, to July 6, 2009, or a hearing date at the convenience of the Court.

19 2. Plaintiff's opposition and Defendant's reply to the motion for summary judgment
20 shall be filed in accordance with Rule 56 and Civil Local Rules 7-3 and 56-1 in reference to the
21 new hearing date.

22 3. Nothing in this Stipulation shall waive Plaintiff's right to seek relief pursuant to
23 Rule 56(f), should the discovery described above remain outstanding despite Plaintiff's diligence.

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25 **IT IS SO STIPULATED.**

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1 DATED: May 20, 2009

EDMUND G. BROWN JR.
ATTORNEY GENERAL OF THE STATE OF
CALIFORNIA

2

3

PAUL T. HAMMERNESS
Supervising Deputy Attorney General

4

By: /s/
TROY B. OVERTON
Deputy Attorney General

5

6

Attorneys for Defendant
CHARLES D. LEE, JR., M.D.

7

8

9 DATED: May 20, 2009

COBLENTZ, PATCH, DUFFY & BASS LLP

10

By: /s/
MARIO A. MOYA

11

12

Attorneys for Plaintiff
PIERRE LEBON HOFFMAN

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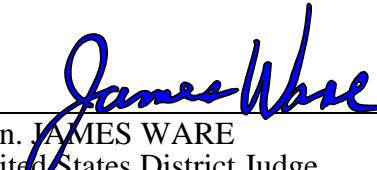
IT IS SO ORDERED. The Court also continues the Preliminary Pretrial Conference currently set for June 29, 2009 to **July 6, 2009 at 11 a.m.** to coincide with the hearing on the Motion, which is at **9 a.m.**

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DATED: May 21, 2009

By: 
Hon. JAMES WARE
United States District Judge
Northern District of California

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