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5 Attorneys for Defendant
 6 FLIGHT OPTIONS, LLC

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 8 UNITED STATES DISTRICT
 9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 10 SAN JOSE DIVISION – ECF PROGRAM

11
 12 ANITA MCCULLOUGH,
 13 Plaintiff,
 14 v.
 15 FLIGHT OPTIONS, LLC and DOES 1
 through 50, inclusive,
 16 Defendants.

CASE NO. C09-00488 RMW

**STIPULATION AND []
 ORDER TO CONTINUE EARLY
 NEUTRAL EVALUATION DEADLINE
 [Civil L.R. 7-12; ADR L.R. 5-5]**

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 19 This Stipulation is entered into between plaintiff Anita McCullough, by and through her
 20 counsel of record, Law Offices of Robert D. Ponce, and defendant Flight Options, LLC, by and
 21 through its counsel of record, Kenney & Markowitz L.L.P. The Parties stipulate as follows:

22 1. Prior to the Initial Case Management Conference on June 12, 2009, the parties
 23 agreed to Early Neutral Evaluation (“ENE”) as their choice of Alternative Dispute Resolution
 24 pursuant to Civil L.R. 16-8 and ADR L.R. 3-5.

25 2. On June 17, 2009, the Court referred this action to ENE and assigned neutral,
 26 Sadhana Narayan, on July 2, 2009. The Court ordered that the ENE be completed on or before
 27 September 15, 2009.

28 3. On July 30, 2009, Court-appointed neutral, Sadhana Narayan, initiated a telephone

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1 conference with the parties to schedule the ENE. The ENE was scheduled for September 15,
2 2009, which is the current deadline for completing same.

3 4. Robert Sullivan, Flight Options' Director of Human Resources, is the company
4 representative required to attend the ENE on behalf of Flight Options. At the time the ENE was
5 scheduled for September 15, 2009, Mr. Sullivan was available to attend.

6 5. On August 25, 2009, counsel for Flight Options received a telephone call from Mr.
7 Sullivan advising that he had just been ordered by a federal arbitrator to personally appear in
8 Washington, D.C. for the entire week of September 14th for the final round of negotiations over a
9 Collective Bargaining Agreement with the Teamsters Union. Mr. Sullivan further advised that
10 this is the culmination of three years of ongoing negotiations, and his appearance in Washington,
11 D.C. can neither be avoided nor delegated. Mr. Sullivan stated that he would no longer be able to
12 attend the ENE on September 15, 2009, and he asked that a brief continuance to the following
13 week be obtained to ensure his presence. Mr. Sullivan explained that he is the proper Flight
14 Options' representative to attend the ENE, and he indicated that his personal appearance at the
15 ENE is necessary and cannot be delegated to another company representative.

16 6. Subsequent to receiving Mr. Sullivan's telephone call, counsel for Flight Options
17 immediately emailed both the Court-appointed neutral, Sadhana Narayan, and plaintiff's counsel,
18 Robert Ponce, to explain the conflict that had just arisen and inquire whether they would be
19 amenable to the continuing the ENE session and ADR completion deadline to the following week
20 to accommodate Mr. Sullivan's sudden unavailability.

21 7. On August 27, 2009, the Court-appointed neutral, Sadhana Narayan, advised that
22 she is willing to sign a stipulation and has no objection to resetting the ENE Session to September
23 22 or 24, 2009, subject to Court approval.

24 8. On August 27, 2009, plaintiff's counsel, Mr. Ponce, indicated that he and his client
25 have no objection to continuing the ADR completion deadline and are available to participate in
26 an ENE Session on September 22, 2009.

27 9. Accordingly, the parties hereby stipulate and respectfully request that the Court
28 vacate the current ADR completion deadline of September 15, 2009 and continue the ADR

1 completion date by an additional 7 days, to September 22, 2009, and the Court-appointed neutral,
2 Sadhana Narayan, hereby consents to this request.

3 Respectfully submitted,

4 DATED: August 27, 2009

KENNEY & MARKOWITZ L.L.P

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By: /s/ Kimberly I. McIntyre
KEN M. MARKOWITZ
KIMBERLY I. MCINTYRE
Attorneys for Defendant
FLIGHT OPTIONS, LLC.

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9 DATED: August 28, 2009

LAW OFFICES OF ROBERT D. PONCE

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By: /s/ Robert D. Ponce
ROBERT D. PONCE
Attorney for Plaintiff
ANITA MCCULLOUGH

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14 DATED: August 28, 2009

THE NARAYAN LAW FIRM

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By: /s/ Sadhana Narayan
SADHANA NARAYAN
Court-Appointed Neutral Evaluator

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[] ORDER

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Pursuant to the parties' stipulation, and the agreement of the Court-appointed neutral evaluator, the Alternative Dispute Resolution completion deadline of September 15, 2009 is vacated. The parties are to complete Early Neutral Evaluation on or before September 22, 2009.

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IT IS SO ORDERED.

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24 DATED: 9/11/09



RONALD M. WHYTE
UNITED STATES DISTRICT JUDGE

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Kenney
&
Markowitz
L.L.P.

