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1 2 3 4 5 6	KEN M. MARKOWITZ (SBN 104674) KIMBERLY I. MCINTYRE (SBN 184648) KENNEY & MARKOWITZ L.L.P. 255 California Street, Suite 1300 San Francisco, CA 94111 Telephone: (415) 397-3100 Facsimile: (415) 397-3170 Attorneys for Defendant FLIGHT OPTIONS, LLC	<u>*E-FILED - 9/11/09*</u>		
7 8	UNITED STATES DISTRICT			
9	FOR THE NORTHERN DISTRICT OF CALIFORNIA			
10	SAN JOSE DIVISION – ECF PROGRAM			
11				
12	ANITA MCCULLOUGH,	CASE NO. C09-00488 RMW		
13	Plaintiff,	STIPULATION AND []		
14	v.	ORDER TO CONTINUE EARLY NEUTRAL EVALUATION DEADLINE Civil D. 7.12: ADD J. D. 5.51		
15	FLIGHT OPTIONS, LLC and DOES 1 through 50, inclusive,			
16	Defendants.			
17				
18				
19	This Stipulation is entered into between plaintiff Anita McCullough, by and through her			
20	counsel of record, Law Offices of Robert D. P	counsel of record, Law Offices of Robert D. Ponce, and defendant Flight Options, LLC, by and		
21	through its counsel of record, Kenney & Markov	witz 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 telepho			
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conference with the parties to schedule the ENE. The ENE was scheduled for September 15, 2009, which is the current deadline for completing same.

- 4. Robert Sullivan, Flight Options' Director of Human Resources, is the company representative required to attend the ENE on behalf of Flight Options. At the time the ENE was scheduled for September 15, 2009, Mr. Sullivan was available to attend.
- 5. On August 25, 2009, counsel for Flight Options received a telephone call from Mr. Sullivan advising that he had just been ordered by a federal arbitrator to personally appear in Washington, D.C. for the entire week of September 14th for the final round of negotiations over a Collective Bargaining Agreement with the Teamsters Union. Mr. Sullivan further advised that this is the culmination of three years of ongoing negotiations, and his appearance in Washington, D.C. can neither be avoided nor delegated. Mr. Sullivan stated that he would no longer be able to attend the ENE on September 15, 2009, and he asked that a brief continuance to the following week be obtained to ensure his presence. Mr. Sullivan explained that he is the proper Flight Options' representative to attend the ENE, and he indicated that his personal appearance at the ENE is necessary and cannot be delegated to another company representative.
- 6. Subsequent to receiving Mr. Sullivan's telephone call, counsel for Flight Options immediately emailed both the Court-appointed neutral, Sadhana Narayan, and plaintiff's counsel, Robert Ponce, to explain the conflict that had just arisen and inquire whether they would be amenable to the continuing the ENE session and ADR completion deadline to the following week to accommodate Mr. Sullivan's sudden unavailability.
- 7. On August 27, 2009, the Court-appointed neutral, Sadhana Narayan, advised that she is willing to sign a stipulation and has no objection to resetting the ENE Session to September 22 or 24, 2009, subject to Court approval.
- 8. On August 27, 2009, plaintiff's counsel, Mr. Ponce, indicated that he and his client have no objection to continuing the ADR completion deadline and are available to participate in an ENE Session on September 22, 2009.
- 9. Accordingly, the parties hereby stipulate and respectfully request that the Court 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	
5		By: /s/ Kimberly I. McIntyre	
6 7		KEN M. MARKOWITZ KIMBERLY I. MCINTYRE Attorneys for Defendant	
8		FLIGHT OPTIONS, LLC.	
9	DATED: August 28, 2009	LAW OFFICES OF ROBERT D. PONCE	
11 12		By: /s/ Robert D. Ponce ROBERT D. PONCE Attorney for Plaintiff ANITA MCCULLOUGH	
13		ANITA MCCULLOUGH	
14	DATED: August 28, 2009	THE NARAYAN LAW FIRM	
15		Ry: /c/ Sadhana Narayan	
16		By: /s/ Sadhana Narayan SADHANA NARAYAN Court-Appointed Neutral Evaluator	
17		Court rappointed reduction Evaluation	
18	[] ORDER		
19	Pursuant to the parties' stipulation,	and the agreement of the Court-appointed neutral	
20	evaluator, the Alternative Dispute Resolution completion deadline of September 15, 2009 is		
21	vacated. The parties are to complete Early N	vacated. The parties are to complete Early Neutral Evaluation on or before September 22, 2009.	
22	IT IS SO ORDERED.		
23			
24	DATED: _9/11/09	$\boldsymbol{\rho}$	
25		Konald M. Whyte	
26		RONALD M. WHYTE	
27		UNITED STATES DISTRICT JUDGE	
28			
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	1	McCullough v. Flight Options, LLC U.S.D.C., Northern District - San Jose Division # C09-00488 RMW		
	2			
	3	PROOF OF SERVICE [C.C.P.§2008, F.R.C.P. Rule 5]		
	4	I, the undersigned, state:		
	5	I am a citizen of the United States. My business address is 255 California Street, Suite 1300, San Francisco, California 94111. I am employed in the City and County of San Francisco. I am over the age of		
	6	eighteen years and not a party to this action. On the date set forth below, I served the foregoing documents described as follows:		
	7	STIPULATION AND [PROPOSED] ORDER TO CONTINUE EARLY		
	8	NEUTRAL EVALUATION DEADLINE [CIVIL L.R. 7-12; ADR L.R. 5-5]		
	9	on the following person(s) in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:		
	10	Robert D. Ponce Sadhana Narayan		
	11	Robert D. Ponce Sadhana Narayan LAW OFFICES OF ROBERT D. PONCE THE NARAYAN LAW FIRM 787 Munras Avenue, Ste. 200 2040 Pioneer Ct., 2 nd Floor		
	12	Monterey, CA 93940 San Mateo, CA 94403		
	13	(VIA E-SERVICE) (VIA FACSIMILE AND MAIL)		
	14	Clerk of the ADR Unit U.S.D.C., Northern District		
	15	San Jose Division 280 South 1st Street		
		San Jose, CA 95113		
	16	(VIA FEDEX)		
	17 18	[] <u>BY FIRST CLASS MAIL</u> – I am readily familiar with my firm's practice for collection and processing of correspondence for mailing with the United States Postal Service, to wit, that correspondence will be deposited with the United States Postal Service this same day in the		
	19	ordinary course of business. I sealed said envelope and placed it for collection and mailing this date, following ordinary business practices.		
	20	[] <u>BY PERSONAL SERVICE</u> – Following ordinary business practices, I caused to be served, by hand delivery, such envelope(s) by hand this date to the offices of the addressee(s).		
	21	[] <u>BY OVERNIGHT MAIL</u> – I caused such envelope to be delivered by a commercial carrier service for overnight delivery to the office(s) of the addressee(s).		
	22	[] <u>BY FACSIMILE</u> – I caused said document to be transmitted by Facsimile machine to the number		
	23	indicated after the address(es) noted above.		
	24	[X] As indicated above.		
	25	I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed this date in San Francisco, California.		
	26	Dated: August 28, 2009		
Kenney &	27	/s/ Janie Crowley		
Markowitz L.L.P.	28	JANIE CROWLEY		
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