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7 Attorneys for Plaintiff
8 CHARLES GUENTHER

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

12 CHARLES GUENTHER, an individual,
13 Plaintiff,

14 vs.

15 LOCKHEED MARTIN CORPORATION,
16 LOCKHEED MARTIN CORPORATION
17 RETIREMENT PLAN FOR CERTAIN SALARIED
18 EMPLOYEES, and DOES 1 through 30,
19 Defendants.

Case No. CV 11-00380 EJD

**STIPULATION AND ORDER TO
CONTINUE HEARING ON
MOTION TO DISMISS AND CASE
MANAGEMENT CONFERENCE**

**Date: August 26, 2011
Time: 9:00 a.m.
Courtroom: 1, 5th Floor
Judge: The Hon. Edward J. Davila**

20 Doc. 24

21 WHEREAS this case was filed initially filed in state court; and
22 WHEREAS Defendants removed this case to Federal court on February 25, 2011; and
23 WHEREAS Plaintiff filed a First Amended Complaint on March 2, 2011; and
24 WHEREAS Defendants filed a Motion To Dismiss the First Amended Complaint on
25 March 23, 2011; and

26 WHEREAS when this case was reassigned from Judge Koh to Judge Davila in April
27 2011, the hearing on the Motion To Dismiss was re-set for August 26, 2011; and
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WHEREAS Plaintiff's counsel staff, when they re-calendared the hearing date, erroneously calendared it under state court law and motion rules rather than the local Federal Rules that were applicable after removal; and

WHEREAS because of this Plaintiff inadvertently failed to file a brief in opposition to the Motion To Dismiss before the August 5, 2011 deadline that was based on the August 26, 2011 hearing date; and

WHEREAS Defendants do not oppose Plaintiff having an opportunity to file an opposition brief; and

THEREFORE the parties stipulate and request that the hearing date on the Defendants' Motion To Dismiss First Amended Complaint shall be continued from August 26, 2011 to September 16, 2011 at 9:00 a.m. and that the Case Management Conference set for August 26, 2011 shall also be continued to September 16, 2011 and held directly after the hearing on the Motion To Dismiss. Subject to the Court's approval of the requested continuance, the parties agree that Plaintiff will file his opposition to the Motion To Dismiss on August 19, 2011 and Defendants will file their reply to the Motion To Dismiss on August 26, 2011.

IT IS SO STIPULATED.

Dated: August 16, 2011

PIERCE & SHEARER LLP

By: /s/ Andrew F. Pierce
Andrew F. Pierce
Attorneys for Plaintiff

Dated: August 16, 2011

TRUCKER HUSS

By: /s/ Clarissa A. Kang
Clarissa A. Kang
Attorneys for Defendants

IT IS SO ORDERED.

Dated: August 18, 2011


United States District Judge