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6 YONATHAN I. GONZALEZ

7
 8 UNITED STATES DISTRICT COURT
 9 FOR THE
 10 NORTHERN DISTRICT OF CALIFORNIA
 11

12 YONATHAN I. GONZALEZ,

13 Plaintiff,

14 v.

15
 16 NOR-CAL INSULATION, INC.; LUIS
 17 RAMOS BERMUDEZ; JOSE GUADALUPE
 18 LUCATERO,
 19
 20

Case No.: 15-793 NC

**PLAINTIFF'S MOTION TO CONTINUE
 CASE MANAGEMENT CONFERENCE
 60 DAYS PURSUANT TO LOCAL RULE
 16-2(d); DECLARATION OF TOMAS E.
 MARGAIN IN SUPPORT THEREOF; and
 PROPOSED ORDER**

21
 22 TO THE COURT AND ALL PARTIES WHO HAVE MADE AN APPEARANCE IN
 23 THIS ACTION.

24 Pursuant to Civil Local Rule 16-2(d), as well as the Federal Rules of Civil Procedure,
 25 Plaintiff hereby requests that the initial Case Management Conference set for April 29, 2015 be

1 continued approximately (60) days to June 24, 2015 (Wednesday) at 10:00 am or the next
2 available Wednesday on the Court's calendar. As described below in the Declaration of Tomas
3 E. Margain, good cause exists. Within the last week, Defendants have retained counsel and the
4 corporate Defendant was served. Counsel for both parties have spoken, begun the Rule 26
5 process and wish time to get the pleadings settled, exchange information and hopefully resolve
6 the matter or have the case referred to mediation.

7 Dated: April 23, 2015

8 By: //s// TOMAS E. MARGAIN
9 TOMAS E. MARGAIN

DECLARATION OF TOMAS E. MARGAIN

I, Tomas E. Margain, declare as follows:

1. I am an attorney admitted to this Court and Plaintiff’s attorney of record. I base this declaration on my personal knowledge unless otherwise indicated.

2. The Complaint was filed on February 23, 2015 and an initial CMC set for April 29, 2015 approximately 60 days from filing.

3. After filing the Complaint, I mailed a letter to Defendants and also put the complaint out for service. I did delay service for about 30 days trying to get a response via a letter.

4. On April 20, 2015, I spoke with Mike Dillingham, who I have worked with in the past, who is representing Defendants. While there are lots of contested issues, we agreed to my seeking to continue the initial CMC, focusing on our Rule 26 obligations and exchanges and move towards mediation if we cannot otherwise resolve the matter. Based on the conversation, I have also scheduled a meeting with Plaintiff to get authority to make a demand.

5. I am also informed that my process server did serve the home of one of the Defendants who I believe may be the address of the agent for service of the corporation. Having said that, Mr. Dillingham agreed to accept service.

6. Continuing the Initial CMC to June 24, 2015 will allow me to complete the above tasks. My hope is that at the very least, we would have agreed to mediation and submitted an order as well as having finished our Initial Disclosures before the Initial CMC.

I declare under penalties of perjury under the laws of the United States that the foregoing is true and accurate. Executed on April 23, 2015 in San Jose, California.

By: //s//TOMAS E. MARGAIN//s//
TOMAS E. MARGAIN

MEMORANDUM OF POINTS AND AUTHORITIES

Pursuant to Civil Local Rule 16-2(d), the Court has the authority to modify the Initial Case Management Order upon a motion by a party seeking relief from such an order. Here, counsel have met and conferred about the continuance. Also, good cause exists. A continuance will allow the pleadings to be settled and counsel to have complied with ADR and Rule 26 obligations. Moreover, the time will allow the parties to explore a settlement.

Dated: APRIL 23, 2015

By: //s// TOMAS E. MARGAIN
TOMAS E. MARGAIN

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 YONATHAN I. GONZALEZ,
5

6 Plaintiff,

7 v.
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9 NOR-CAL INSULATION, INC.; LUIS
10 RAMOS BERMUDEZ; JOSE GUADALUPE
11 LUCATERO,
12

13 Defendants
14

Case No.: 15-793 NC

~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S MOTION TO CONTINUE
CASE MANAGEMENT CONFERENCE
PURSUANT TO LOCAL RULE 16-2(d)

15 BASED ON PLAINTIFF'S MOTION TO CONTINUE, THE COURT'S FILE AND
16 GOOD CAUSE SHOWN, THE COURT ORDERS AS FOLLOWS:
17

18 The initial Case Management Conference and Rule 26 Deadlines are continued as follows:

19 **June 12, 2015**

- 20
- 21 • Last Day to Meet and Confer Regarding Initial Discloses, ADR process election and
22 discovery plan.
 - 23 • Last Day to file ADR Certificate signed by Parties and Counsel.
 - 24 • Last Day to either file a stipulation to ARD Process or Notice of Need for ADR Phone
25 Conference.

June 18, 2015

- Last Day to File Rule 26(f) Report, complete initial disclosures and file Joint Case Management Statement
- Last Day to File Magistrate Consent Form

June 24, 2015

- Initial Case Management Conference in Courtroom 7,4^h Floor, San Jose Courthouse at 10:00 a.m.

IT IS SO ORDERED.

DATED: April 23, 2015

By: _____

