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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA, for the use
12 and benefit of:
13 TECHNICA, LLC,

14 Plaintiff,

15 v.

16 CAROLINA CASUALTY INSURANCE
17 COMPANY, et al.,

18 Defendants.

Civil No. 08cv1673 JAH (CAB)

**ORDER ON DEFENDANTS'
APPLICATION FOR LEAVE TO
DESIGNATE AN ADDITIONAL EXPERT**

19 On August 7, 2009, the Court held a telephonic conference on Defendants' application for leave
20 to designate an additional expert after the expiration of the deadline to identify experts in this matter.
21 [Doc. No. 54.] Plaintiff filed an opposition to the request. [Doc. No. 59.] Jack Leer, Esq., appeared for
22 Plaintiff. Robert Berens, Esq., appeared for Defendants. Having considered the submissions of the
23 parties, and argument of counsel, Defendants' motion is **GRANTED**.

24 The Scheduling Order in this case required each party to identify any experts it intended to use
25 and the subject matter of each expert's testimony, no later than July 9, 2009. [Doc. No. 19.]
26 Supplemental identifications were due no later than July 20, 2009. [*Id.*] On July 24, 2009, counsel for
27 Defendants contacted Plaintiff's counsel about the designation of an additional expert on two additional
28 and discrete topics. Plaintiff's counsel objected based on the untimeliness of the request to supplement.

1 Although the Defendants' designation was late, the Court finds it appropriate to grant Defendants
2 the relief requested. The delay has not resulted in any apparent prejudice to Plaintiff. Defendants may
3 supplement their expert disclosure, no later than **August 12, 2009**, to identify an expert on the two
4 specific topics set forth in their application: (1) the reasonableness of Technica's markup charges for
5 employee services; and (2) whether Technica failed to mitigate its damages. The expert's report,
6 pursuant to Rule 26(a)2(B), must be served no later than **August 31, 2009**.

7 Plaintiff is excused from making a rebuttal identification until the service of a rebuttal report on
8 these topics no later than **September 14, 2009**. Upon receipt of the expert's report, Plaintiff may seek
9 leave to request additional fact discovery, if it deems such discovery necessary to prepare a rebuttal.

10 **IT IS SO ORDERED.**

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12 **DATED: August 10, 2009**

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15 CATHY ANN BENCIVENGO
16 United States Magistrate Judge
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