

1 WAYNE W. SMITH, SBN 54593  
WSmith@gibsondunn.com  
2 TIMOTHY J. HATCH, SBN 165369  
THatch@gibsondunn.com  
3 JAMES L. ZELENAY, JR., SBN 237339  
Jzelenay@gibsondunn.com  
4 GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
5 Los Angeles, California 90071-3197  
Telephone: (213) 229-7000  
6 Facsimile: (213) 229-7520

7 Attorneys for Defendant,  
UNIVERSITY OF PHOENIX  
8  
9

10 **UNITED STATES DISTRICT COURT**  
11 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
12

13 UNITED STATES OF AMERICA, ex rel.  
14 MARY HENDOW and JULIE ALBERTSON,

15 Plaintiff,

16 v.

17 UNIVERSITY OF PHOENIX,

18 Defendant.  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CASE NO. CIV. S-03-0457 GEB DAD

**JOINT STIPULATION AND [PROPOSED]  
ORDER TO STAY CASE FOR 45 DAYS**

**[E.D. Cal. Local Rule 83-143]**

**[[Proposed] Order also filed concurrently  
herewith]**

Judge: The Honorable Garland E. Burrell, Jr.  
Place: Courtroom 10

1 Through this Joint Stipulation and [Proposed] Order, the University of Phoenix (“University”)  
2 and Relators Mary Hendow and Julie Albertson (“Relators”) stipulate to and jointly request that the  
3 Court stay all proceedings in this matter for a period of 45 days, and that the Court hold a status  
4 conference following the 45-day period to discuss further scheduling. Good cause exists for this  
5 request and the accompanying [proposed] order.

6 **JOINT STIPULATION**

7 WHEREAS the parties, along with the Department of Justice (“DOJ”), recently engaged in a  
8 mediation with retired Magistrate Judge Edward Infante and reached an understanding, in principle,  
9 to resolve the litigation.

10 WHEREAS this case is a *qui tam* action brought on behalf of the federal government, and  
11 therefore the DOJ must approve any settlement.

12 WHEREAS there remain terms that the parties must negotiate in order to achieve a final  
13 settlement and obtain required approvals from the DOJ.

14 WHEREAS the Court’s current Scheduling Order requires that all discovery be completed by  
15 October 7, 2009, that all dispositive motions be heard by November 23, 2009, and that trial  
16 commence on March 9, 2010.

17 WHEREAS the parties jointly request a stay of all proceedings for 45 days so that they have  
18 sufficient time to negotiate the terms of the settlement agreement and to prepare and file all necessary  
19 documents.

20  
21  
22  
23 ///

24 ///

1 ACCORDINGLY, pursuant to Local Rule 83-143, the parties, by and through their counsel of  
2 record, hereby stipulate to, **and request the Court's approval of the following:**

- 3 1. A stay of the proceedings for 45 days, including all discovery and dispositive motion  
4 deadlines.
- 5 2. A status conference before the Court, if necessary, to revisit the schedule once the 45-  
6 day period has passed if the parties have not concluded the settlement by that date.

7 IT IS SO STIPULATED.

8  
9 DATED: September 30, 2009

By: /s/ James L. Zelenay, Jr.  
James L. Zelenay, Jr.

10  
11 TIMOTHY J. HATCH, SBN 165369  
12 JAMES L. ZELENAY, JR., SBN 237339  
13 GIBSON, DUNN & CRUTCHER LLP  
14 333 South Grand Avenue  
Los Angeles, CA 90071-3197  
Tel (213) 229-7000/Fax (213) 229-7520  
thatch@gibsondunn.com  
jzelenay@gibsondunn.com

15 *Attorneys for Defendant University of Phoenix*

16 Dated: September 30, 2009

By: /s/ Robert J. Nelson (as authorized Sept. 30, 2009)  
Robert J. Nelson

17  
18 ROBERT J. NELSON (SBN 132797)  
19 STEVEN SWERDLOW (SBN 250344)  
20 LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP  
Embarcadero Center West  
275 Battery Street, 30th Floor  
San Francisco, CA 94111  
21 Tel: (415) 956-1000; Fax (415) 956-1008  
rnelson@lchb.com, sswerdlow@lchb.com

22 *Attorneys for Mary Hendow and Julie Albertson,*  
23 *Relators*

**[PROPOSED] ORDER**

This Court, having considered the parties' Joint Stipulation to Stay The Case For 45 Days, finds that good cause exists to grant the parties' request to stay the proceedings for 45 days, including all discovery and dispositive motion deadlines, and to hold a further status conference, if necessary, to address the case schedule after the 45-day period has passed if the parties have not concluded the settlement by that date.

IT IS SO ORDERED.

DATED: \_\_\_\_\_

By: \_\_\_\_\_  
The Honorable Garland E. Burrell, Jr.  
United States District Court

**CERTIFICATE OF SERVICE**

I hereby certify that on September 30, 2009, the attached document, as well as the accompanying [Proposed] Order was electronically transmitted to the Clerk of the Court using the CM/ECF System which will send notification of such filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

Cliff Palesfsky	<a href="mailto:uroy@aol.com">uroy@aol.com</a>
Daniel R. Bartley	<a href="mailto:DanielBartleyLaw@aol.com">DanielBartleyLaw@aol.com</a>
James M. Finberg	<a href="mailto:jfinberg@altshulerberzon.com">jfinberg@altshulerberzon.com</a>
Michael Rubin	<a href="mailto:mrubin@altshulerberzon.com">mrubin@altshulerberzon.com</a>
Nancy G. Krop	<a href="mailto:nkrop@kroplaw.com">nkrop@kroplaw.com</a>
Peter E. Leckman	<a href="mailto:pleckman@altshulerberzon.com">pleckman@altshulerberzon.com</a>
Robert J. Nelson	<a href="mailto:rnelson@lchb.com">rnelson@lchb.com</a>
Jonathan D. Weissglass	<a href="mailto:jweissglass@altshulerberzon.com">jweissglass@altshulerberzon.com</a>
Kendall J. Newman	<a href="mailto:Kendall.newman@usdoj.gov">Kendall.newman@usdoj.gov</a>

I further certify that copies of the foregoing were sent on September 30, 2009, via U.S. Mail to the following parties not registered on the CM/ECF:

Jay D. Majors  
U.S. Department of Justice  
Civil Division  
601 D. Street, N.W., Room 9550  
Washington, DC 20004  
E-Mail: Jay.Majors@usdoj.gov

\_\_\_\_\_  
/s/ James L. Zelenay, Jr.