1 2 3 4 5 6 7	<ul> <li>D. Greg Durbin, # 81749</li> <li>John M. Dunn, # 166482</li> <li>Daniel S. Cho, #260902</li> <li>McCORMICK, BARSTOW, SHEPPARD, WAYTE &amp; CARRUTH LLP</li> <li>P.O. Box 28912</li> <li>5 River Park Place East</li> <li>Fresno, CA 93720-1501</li> <li>Telephone: (559) 433-1300</li> <li>Facsimile: (559) 433-2300</li> <li>Attorneys for Plaintiffs/ Defendants/Cross-DeFOX HOLLOW OF TURLOCK OWNERS</li> </ul>	(SPACE BELOW FOR FILING STAMP ONLY) efendants	
8 9	ASSOCIATION and CALIFORNIA EQUIT MANAGEMENT GROUP, INC. and Defend Defendant ANDREW KATAKIS		
10	UNITED STAT	'ES DISTRICT COURT	
11		RICT OF CALIFORNIA	
12			
13	FOX HOLLOW OF TURLOCK	Case No. CIV-F-03-5439 OWW DLB	
14	OWNERS' ASSOCIATION, a California Nonprofit Mutual Benefit Corporation,	(Consolidated with 1:03-CV-5774 OWW SMS)	
15	Plaintiff,	and Stanislaus County Superior Court Case No. 322675	
16		322073	
17	v. RICHARD SINCLAIR, an individual; et	EX PARTE APPLICATION TO EXTEND DISCOVERY CUT-OFF AS TO	
18	al.,	DEPOSITIONS OF MR. MAUCHLEY, MR. FLAKE AND MR. KATAKIS ONLY; AND	
19	Defendants.	ORDER THEREON	
20			
21	AND CONSOLIDATED ACTIONS		
22			
23			
24	APPLICATION		
25	I, D. Greg Durbin, do hereby declare and state:		
26	1. Your declarant is a member of the firm McCormick, Barstow, Sheppard,		
27	Wayte & Carruth LLP, attorneys of record herein for Plaintiffs FOX HOLLOW OF TURLOCK		
28	OWNERS' ASSOCIATION and CALIFORM	NIA EQUITY MANAGEMENT GROUP, INC., and	
RSTOW, YTE &	12444/00001-1745881.v1		
_P East	EX PARTE APPLICATION TO EXTEND DISCOVERY CUT-OFF		

McCormick, Bar Sheppard, Way Carruth LL 5 RIVER PARK PLACE EAST FRESNO, CA 93720-1501

1 Defendant (in one of the consolidated actions) ANDREW KATAKIS (collectively the 2 "CEMG/Fox Hollow Parties") and as such is a duly licensed and practicing attorney before all 3 courts in the State of California and in this court. 4 2. Your declarant is lead counsel on behalf of the CEMG/Fox Hollow Parties 5 in this action and makes this declaration of his own personal knowledge. 3. Your declarant applies on behalf of the CEMG/Fox Hollow Parties, for an 6 7 order of this court extending the current discovery cut-off of June 15, 2011, for the depositions of 8 Gregory Mauchley, Stanley Flake and Andrew Katakis, up to and including Friday, July 29, 2011. 9 4. Good cause supports this request in that, among other things: 10 The CEMG/Fox Hollow Parties filed a motion to compel further a. 11 written responses, further production of documents, and for sanctions against various Defendants, 12 including Defendant Gregory Mauchley, which such motion as to Mr. Mauchley only has been 13 continued to July 8, 2011, to afford time for Mr. Mauchley to provide supplemental written 14 responses and a production of documents. 15 b. Mr. Mauchley's deposition, that is currently set for June 9, 2011, in 16 Salt Lake City, Utah, would occur without the benefit of the supplemental responses and 17 production, and accordingly the CEMG/Fox Hollow Parties wish to avoid the risk of the need to 18 reconvene Mr. Mauchley's deposition and so request that discovery cut-off be extended with 19 respect to his deposition so that it could occur after the supplemental responses and production 20 are provided (and if necessary, the resolution by the court of any remaining issues). 21 The CEMG/Fox Hollow Parties have noticed the deposition of c. 22 Defendant Stanley Flake for June 14, 2011. 23 d. The attorneys for Mr. Mauchley have advised that they wish to take 24 the deposition of Mr. Katakis and Mr. Mauchley's counsel and CEMG's counsel have agreed to 25 the date of June 15, 2011. 26 Counsel for the CEMG/Fox Hollow Parties, Mr. Mauchley, Mr. e. 27 Flake, wish to conduct all three depositions in California and Mr. Mauchley has agreed to come 28 to California, with the goal of having the depositions occur in a three day sequence that is 12444/00001-1745881.v1 2

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1	currently being discussed (the dates of July 11, 12 and 13 have been tentatively agreed to pending
2	confirmation of he availability of one of the witnesses).
3	f. Judicial efficiency would be achieved by permitting these three
4	depositions to occur beyond the current June 15, 2011 discovery cut-off, as long as they occur
5	prior to July 29, 2011, which is the cut-off date for non-dispositive motions.
6	5. Counsel for Mr. Mauchley (Mr. Tracy [pro hac vice pending] and Mr.
7	Rindlisbacher) and counsel for Mr. Flake (Janlynn Fleener) on behalf of their respective clients
8	have consented to and join in this request for an extension of the discovery cut-off with respect to
9	these three depositions.
10	6. As explained above, the interests of justice are served by and good cause is
11	provided for the extension of the discovery cut-off requested.
12	7. No extension of the discovery cut-off is requested in this ex parte
13	application, except as to those three depositions, each of which will occur for no more than one
14	day.
15	Your declarant declares under penalty of perjury that the foregoing is true and correct and
16	that this declaration is executed by him on this 3 <sup>rd</sup> day of June, 2011, at Fresno, California.
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20	By: /s/ D. Greg Durbin D. Greg Durbin
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23	ORDER
24	Upon ex parte application of the CEMG/Fox Hollow Parties, and good cause appearing, it
25	is hereby ordered that:
26	1. The current discovery cut-off of June 15, 2011, be extended up to and including
27	July 29, 2011, with respect to the taking of a one day deposition of Gregory Mauchley noticed by
28	the CEMG/Fox Hollow Parties;
MCCORMICK, BARSTOW, SHEPPARD, WAYTE &	<u>12444/00001-1745881.v1</u> <u>3</u>
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1	2 The summer discourse and off of Lange 15, 2011, he extended any to and including	
1	2. The current discovery cut-off of June 15, 2011, be extended up to and including	
2	July 29, 2011, with respect to the taking of a one day deposition of Stanley Flake noticed by the	
3	CEMG/Fox Hollow Parties; and	
4	3. The current discovery cut-off of June 15, 2011, be extended up to and including	
5	uly 29, 2011, with respect to the taking of a one day deposition of Andrew Katakis to be noticed	
6	by the Mr. Mauchley.	
7	4. Except as set forth herein, this order does not otherwise continue any of the dates	
8	set out in the Supplemental Scheduling Conference Order filed August 20, 2010 [Docket # 429].	
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10	IT IS SO ORDERED.	
11	Dated: June 3, 2011 /s/ Dennis L. Beck	
12	UNITED STATES MAGISTRATE JUDGE	
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