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18 Attorneys for: Plaintiffs

19 UNITED STATES DISTRICT COURT

20 EASTERN DISTRICT OF CALIFORNIA / FRESNO DIVISION

21
22 ABARCA, RAUL VALENCIA, et al.) Case No. 1:07-CV-0388 OWW DLB
23 Plaintiffs,)
24)
25 v.)
26 MERCK & CO., INC., et al.,)
27 Defendants.)
28

**STIPULATION AND ORDER
REGARDING DISMISSAL OF FIRST,
SECOND, THIRD, FOURTH, FIFTH AND
SIXTH CLAIMS**

1 The parties hereto enter into this stipulation for the purpose of allowing them to focus on issues
2 that may enhance their ability to settle all remaining claims presented by plaintiffs against the
3 stipulating defendants. By entering into this stipulation, the parties acknowledge that they are
4 significantly changing and modifying their discovery effort necessary to prepare for trial and therefore
5 all agree that this stipulation will be binding and cannot be revoked.

6 All plaintiffs by and through their attorneys, Michael G. Marderosian of Marderosian, Runyon,
7 Cerccone, Lehman & Armo, Michael J. Bidart of Shernoff, Bidart, Darras & Echeverria, Thomas V.
8 Girardi of Girardi & Keese, and Jack Silver of the Law Offices of Jack Silver (hereinafter referred to
9 as "plaintiffs") and defendants County of Merced by and through its attorneys Terry L. Allen of Allen,
10 Proietti & Fagalde and Jan A. Greben of Greben & Associates (hereinafter referred to as "County"),
11 City of Merced by and through its attorneys Gene Tanaka of Best, Best & Krieger, LLP (hereinafter
12 referred to as "City"), Merced Irrigation District and Merced Irrigation District Drainage District No.
13 1 by and through their attorneys Robert H. Greenfield of Greenfield-Hardy and Jeffrey F. Oneal of
14 LaMore, Brazier, Riddle & Giampaoli (hereinafter referred to as "MID and MIDDD No. 1"), Franklin
15 County Water District by and through its attorneys Joseph Salazar, Jr. of Lewis, Brisbois, Bisgaard
16 & Smith (hereinafter referred to as "FCWD") and Meadowbrook Water Company by and through its
17 attorneys Gary Drummond of Stevens, Drummond & Gifford (hereinafter referred to as "MWC")
18 collectively referred to as "stipulating defendants" HEREBY STIPULATE:

19 1. That plaintiffs' First, Second, Third, Fourth, Fifth and Sixth claims set forth in their
20 Fifth Amended Complaint on file herein are dismissed with prejudice with each side bearing their own
21 attorney's fees and costs including expert fees that pertain to the claims to be dismissed;

22 2. The parties enter into this stipulation to allow them to focus their attention on resolving
23 the remaining claims in this case;

24 3. The stipulating defendants will withdraw the following motions related to the claims
25 to be dismissed currently pending before the court: City of Merced's Motion to Dismiss CWA and
26 RCRA Claims; County of Merced's Motion to Dismiss CWA and RCRA Claims; MID and MIDD
27 No. 1's Motion to Dismiss CWA and RCRA Claims; and FCWD's Motion to Dismiss CWA and
28 RCRA Claims.

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1 RCRA Claims; and the Motion to Compel Answers to Interrogatories, Set One, filed by the MID and
2 all joinders filed by the stipulating defendants;

3 4. The parties acknowledge that the remaining claims against these stipulating defendants
4 are so related to the remaining federal claims against non-stipulating defendants, that the remaining
5 claims form part of the same case or controversy under Article III of the United States Constitution
6 and 29 U.S.C. § 1367(a). Therefore, the parties herein agree they will not contest this court's
7 continued jurisdiction as to the remaining claims;

8 5. This stipulation shall be filed with the Court within five (5) days after execution by all
9 parties hereto; and

10 6. This stipulation represents the entire, final agreement between the parties relating to
11 the subject matters of the stipulation and this stipulation may only be amended by a writing executed
12 by all parties. This stipulation may not be contradicted by evidence of prior, contemporaneous, or
13 subsequent oral agreements of the parties; there are no unwritten oral agreements between the parties.

14 Dated: April 14, 2009

MARDEROSIAN, RUNYON, CERCONE
LEHMAN & ARMO

16 By: /s/ Michael G. Marderosian

17 MICHAEL G. MARDEROSIAN,
18 Attorney for Plaintiffs above named

19 Dated: April 14, 2009

SHERNOFF, BIDART,
DARRAS & ECHEVERRIA

21 By: /s/ Michael J. Bidart

22 MICHAEL J. BIDART,
23 Attorneys for Plaintiffs above named

24 Dated: April 14, 2009

GIRARDI & KEESE

26 By: /s/ Thomas V. Girardi

27 THOMAS V. GIRARDI
28 Attorneys for Plaintiffs above named

///

1 Dated: April 14, 2009

LAW OFFICE OF JACK SILVER

2
3 By: /s/ Jack Silver
4 JACK SILVER,
5 Attorneys for Plaintiffs above named

6 Dated: April 14, 2009

LEWIS, BRISBOIS, BISGAARD & SMITH

7
8 By: /s/ Joseph A. Salazar, Jr.
9 JOSEPH A. SALAZAR, JR.
10 Attorneys for Defendant, FRANKLIN
11 COUNTY WATER DISTRICT

12 Dated: April 14, 2009

GREENFIELD-HARDY

13
14 By: /s/ Robert H. Greenfield
15 ROBERT H. GREENFIELD
16 Attorneys for Defendant, MERCED
17 IRRIGATION DISTRICT

18 Dated: April 14, 2009

LaMORE, BRAZIER, RIDDLE
& GIAMPAOLI

19
20 By: /s/ Jeffrey F. O'Neal
21 JEFFREY F. O'NEAL
22 Attorneys for Defendant, MERCED
23 IRRIGATION DISTRICT

24 Dated: April 14, 2009

ALLEN, PROIETTI & FAGALDE

25
26 By: /s/ Terry L. Allen
27 TERRY L. ALLEN
28 Attorneys for Defendant, COUNTY OF
MERCED

1 Dated: April 14, 2009

GREBEN & ASSOCIATES

2
3 By: /s/ Jan Adam Greben
4 JAN ADAM GREBEN
5 Attorneys for Defendant, COUNTY OF
MERCED

6 Dated: April 14, 2009

BEST, BEST & KRIEGER

7
8 By: /s/ Gene Tanaka
9 GENE TANAKA
10 Attorneys for Defendant, CITY OF
MERCED

11 Dated: April 14, 2009

12 STEVENS. DRUMMOND & GIFFORD

13
14 By: /s/ Gary Drumond
15 GARY DRUMMOND
16 Attorneys for MEADOWBROOK
WATER COMPANY OF MERCED,
INC.

17
18
19 **ORDER**

20 IT IS SO ORDERED.

21 Dated: April 14, 2009

22 /s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE