

1 DAVEN G. LOWHURST (CA BAR #124723)  
 Email: [lowhurstd@howrey.com](mailto:lowhurstd@howrey.com)  
 2 AARON R. GRUBER (CA BAR #209509)  
 Email: [grubera@howrey.com](mailto:grubera@howrey.com)  
 3 HOWREY LLP  
 525 Market Street, Suite 3600  
 4 San Francisco, CA 94105-3606  
 Tel. 415.848.4900  
 5 Fax 415.848.4999

6 Attorneys for Plaintiff  
 CENTEX HOMES

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION

11 CENTEX HOMES,

12 Plaintiff,

13 vs.

14 FINANCIAL PACIFIC INSURANCE  
 COMPANY, AMERICAN STATES  
 15 INSURANCE COMPANY, SAFECO  
 INSURANCE COMPANY and CARR  
 16 BUSINESS ENTERPRISES, INC.,

17 Defendants.

Case No.: 1:07-CV000567-AWI-SMS

STIPULATION AND ORDER TO EXTEND  
 CERTAIN PRE-TRIAL DEADLINES

Courtroom: 7

Magistrate Judge: Honorable Sandra M. Snyder

Trial Date: March 16, 2010

18 RELATED CROSS/COUNTER-CLAIMS  
 19

20 Pursuant to the telephonic conference among the parties and the Court on July 15, 2009,  
 21 the parties to the action, through their respective counsel, hereby agree and stipulate as follows,  
 22 and request that the Court enter the following order approving the stipulation:  
 23

24 WHEREAS the four above-entitled cases are not consolidated but are related by virtue of  
 Plaintiff and Defendant Financial Pacific Insurance Company being parties to all four cases and  
 25 Plaintiff having similar claims against the Defendants;  
 26

27 WHEREAS certain discovery issues are common to each of the four cases, and the parties  
 28 seek extension of certain pre-trial deadlines applicable to all four case based on the following facts;

1           WHEREAS the cases involve claims concerning numerous underlying state court actions  
2 for construction defects in which there were hundreds of underlying plaintiffs;

3           WHEREAS the parties are still diligently exchanging documentation, made more time  
4 consuming because of difficulty in locating and producing certain documents relevant to their  
5 claims and defenses;

6           WHEREAS the parties, by and through their respective counsel, are still working to resolve  
7 issues related to document conversion, accessibility and production, as well as to informally resolve  
8 various discovery disputes that have arisen;

9           WHEREAS the parties have previously requested extension of discovery deadlines but  
10 realize they will be unable to complete discovery by the current discovery deadlines for the reasons  
11 mentioned above;

12           WHEREAS, counsel have been recently made aware of the death of Defendant STEVEN  
13 MICHAEL PARSONS;

14           WHEREAS the person most knowledgeable for Defendant CARR BUSINESS  
15 ENTREPRISES, INC. has been unavailable for deposition;

16           WHEREAS, the parties have met and conferred on pre-trial deadlines at length and declare  
17 that this stipulation has been entered into based on a good faith analysis of the time necessary to  
18 conclude their discovery based on facts known to them at this time, and of the need to have non-  
19 expert discovery completed prior to expert disclosures;

20           WHEREAS, the mediation, previously scheduled for September 1, 2009, has been  
21 continued due to trial conflicts of defense counsel and to allow parties to complete discovery;

22           WHEREAS, this stipulation presents dates in accordance with the new trial date set by this  
23 Court for March 16, 2010;

24           IT IS HEREBY STIPULATED by and among the parties to this action, through their  
25 respective counsel below, that the following deadlines may be extended as set forth below:  
26

27

<u>Event</u>	<u>Current</u>	<u>Revised deadline</u>
--------------	----------------	-------------------------

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

	<u>deadline</u>	
Close of non-expert discovery	7/17/09	11/6/09
Expert disclosure	7/22/99	11/20/09
Supplemental expert disclosure	8/5/09	12/04/09
Close of expert discovery	8/15/09	12/18/09
Filing non-dispositive motion	8/21/09	12/24/09
Filing dispositive motion	8/21/09	12/24/09
Pre-trial conference date	8/21/09	1/29/10
Trial Date	10/6/09	3/16/10

DATED: August 10, 2009

HOWREY LLP

By  /s/ Aaron Gruber  
AARON R. GRUBER  
Attorneys for Plaintiff CENTEX HOMES

DATED: August 10, 2009

FOTOUHI EPPS HILLGER GILROY LLP

By  /s/ Mark Divelbiss  
MARK DIVELBISS  
Attorneys for Defendant and Cross-Claimant  
FINANCIAL PACIFIC INSURANCE COMPANY

DATED: August 10, 2009

ANWYL SCOFFIELD & STEPP, LLP

By  /s/ Pamela Lewis  
PAMELA LEWIS  
Attorneys for Defendant CARR BUSINESS  
ENTERPRISES, INC.

DATED: August 10, 2009

SINNOTT, DITO, MOURA & PUEBLA P.C.

By  /s/ Stephen Wong  
STEPHEN WONG



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**RULE 7-131(e) CERTIFICATION**

I, Aaron R. Gruber, hereby attest, pursuant to this Court’s Rule 7-131(e), that each of the other counsel identified above have authorized the submission of this Stipulation and [Proposed] Order on that counsel’s behalf.

Executed this 10th day of August, 2009, at Sacramento, California.

\_\_\_\_\_  
/s/ Aaron R. Gruber  
Aaron R. Gruber  
Attorney for Plaintiff CENTEX HOMES

**ORDER**

The parties having so stipulated, and good cause appearing, the Court hereby revises its current Scheduling Conference Order (Document 58) to incorporate the revised deadlines set forth below:

<u>Event</u>	<u>Current deadline</u>	<u>Revised deadline</u>
Close of non-expert discovery	7/17/09	11/6/09
Expert disclosure	7/22/99	11/20/09
Supplemental expert disclosure	8/5/09	12/04/09
Close of expert discovery	8/15/09	12/18/09
Filing non-dispositive motion	8/21/09	12/24/09
Filing dispositive motion	8/21/09	12/24/09
Pre-trial conference date	8/21/09	1/29/10
Trial Date	10/6/09	3/16/10

DATED: 8/20/2009

\_\_\_\_\_  
/s/ Sandra M. Snyder  
Magistrate Judge of the United States District Court