

1 Timothy J. Buchanan, # 100409
Mandy L. Jeffcoach, # 232313
2 McCormick, Barstow, Sheppard,
Wayte & Carruth LLP
3 P.O. Box 28912
5 River Park Place East
4 Fresno, CA 93720-1501
Telephone: (559) 433-1300
5 Facsimile: (559) 433-2300

(SPACE BELOW FOR FILING STAMP ONLY)

6 Attorneys for Defendants DLUBAK GLASS
COMPANY, INC. and DAVID A. DLUBAK and
7 Counterclaimant DLUBAK GLASS COMPANY, INC.

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10
11 ELECTRONIC RECYCLERS
INTERNATIONAL, INC., a Delaware
12 Corporation, and ELECTRONIC
RECYCLERS OF AMERICA LLC, a
13 California Limited Liability Company,

14 Plaintiffs,

15 v.

16 DLUBAK GLASS COMPANY, INC., a
Pennsylvania Corporation, DAVID A.
17 DLUBAK, an individual, and DOES 1
through 25, inclusive,,

18 Defendants.

19
20 DLUBAK GLASS COMPANY, INC. a
Pennsylvania Corporation,

21 Counterclaimant

22 ELECTRONIC RECYCLERS
INTERNATIONAL, INC., a Delaware
23 Corporation

24 Counterdefendant
25
26
27
28

Case No. 1:10-CV-00760-LJO-GSA

**SECOND STIPULATION AND ORDER
EXTENDING DATES IN SCHEDULING
CONFERENCE ORDER FOR INITIAL
AND SUPPLEMENTAL DISCLOSURES
OF EXPERT WITNESSES**

Trial Date: October 31, 2011

1 The parties to this action, through their attorneys of record, hereby recite and stipulate as
2 follows:

3 1. This action was removed to this Court on or about April 29, 2010.

4 2. On or about July 23, 2010, this Court entered its scheduling conference order for
5 this case. The order sets a trial date of October 31, 2011.

6 3. On February 24, 2011, the parties jointly submitted, and the Court approved, a
7 stipulation modifying the Scheduling Order by extending the dates for initial and supplemental
8 disclosure of expert witnesses. The dates were moved from March 14, 2011 (initial) to April 15,
9 2011, and from April 1, 2011 (supplemental) to May 1, 2011.

10 4. The parties have been diligently pursuing discovery in the past several months.
11 Various document production issues have arisen between the parties, some of which were
12 resolved by mutual agreement but which led to delay of production of various documents, and
13 some of which were resolved by a motion to compel filed by Dlubak Glass Company that was
14 heard and resolved by stipulation on Friday, April 1, 2011. The supplemental production date for
15 the subject documents is April 15, 2011 (production) or April 22, 2011 (inspection). Various
16 documents in these categories are relevant to expert witness opinions and work being done by
17 experts on damages claims. Discovery is also being pursued against third parties including
18 governmental entities and that production will not be completed until after the current initial
19 expert disclosure date. These delays have made it impracticable for expert witnesses to prepare
20 necessary reports by the current initial expert disclosure of April 15, 2011. The accompanying
21 declaration of Timothy J. Buchanan sets out these facts.

22 5. Further, the deposition of Defendant Dlubak Glass Company took place on March
23 2-3, 2011. One of the witnesses, Herb Schall, was unable to travel to California for the deposition
24 because of a recurring heart problem. His deposition has been set for April 19, 2011, in Ohio.
25 This deposition is also needed for expert consideration.

26 6. Moving the initial and supplemental expert disclosure deadlines by another thirty
27 (30) days will not require movement of any further dates in this action. The trial date may remain
28 intact and nor party desires or requests such a movement. All other dates can be accommodated

1 with this proposed move.

2 7. Accordingly, for the above cause, the parties hereby stipulate that the initial expert
3 witness disclosure date of April 15, 2011, shall be extended to May 16, 2011. The supplemental
4 expert disclosure deadline shall be moved from May 1, 2011, to June 1, 2011. The expert
5 discovery cutoff shall be moved from June 1, 2011, to July 1, 2011.

6 8. As noted above, this movement will not affect any other dates in this action. The
7 trial date of October 31, 2011, remains in place.

8 9. This stipulation is submitted solely to accommodate the parties' legitimate
9 discovery needs in this case and their need to prepare this case properly for trial. It is not
10 presented for any purpose of delay or other improper objective.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: April 5, 2011

McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

By: /s/ Timothy J. Buchanan
Timothy J. Buchanan
Mandy L. Jeffcoach
Attorneys for Defendants
DLUBAK GLASS COMPANY, INC. and
DAVID A. DLUBAK and Counter
Claimant DLUBAK GLASS COMPANY,
INC.

Dated: April 5, 2011

DOWLING, AARON & KEELER, INC.

By: /s/ Donald R. Fischbach
Donald R. Fischbach
Attorneys for Plaintiffs
ELECTRONIC RECYCLERS
INTERNATIONAL INC., and
ELECTRONIC RECYCLERS OF
AMERICA, LLC

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

ORDER

Based upon the above stipulation and the accompanying declaration of Timothy J. Buchanan, and good cause appearing, the Court HEREBY ORDERS that the Scheduling Conference Order shall be amended as follows: in section 4 of the Order, the initial expert witness disclosure date shall be moved to **May 16, 2011**, and the supplemental expert disclosure date shall be moved to **June 1, 2011**. The expert discovery deadline shall be moved to **July 1, 2011**. All other provisions of the Order are in full force and effect.

The parties have expressly acknowledged to the Court that they understand the expert discovery deadline as modified now shares the same date as the deadline for filing pretrial motions. Further, the parties have been advised that it is very unlikely that future stipulations or requests to modify the scheduling order will be adopted and/or granted.

IT IS SO ORDERED.

Dated: April 12, 2011

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE