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LIPSCHULTZ & SCHERAGO LLP

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JOHN C. BRISBIN, an individual, dba
CONSTRUCTION DEVELOPMENT
SYSTEMS,

Plaintiff,

v.

VULCAN MATERIALS COMPANY, a
New Jersey corporation; and DOES 1
through 100, inclusive,

Defendant.

Case No. 1:11-CV-00568-AWI-SKO

**STIPULATION TO AMEND
SCHEDULING ORDER;
ORDER THEREON**

THE UNITED STATES OF AMERICA,
for the Use and Benefit of CALMAT
CO., a Delaware corporation, dba
VULCAN MATERIALS COMPANY –
WESTERN DIVISION; et al,

Counter-Claimants

v.

JOHN C. BRISBIN, an individual, dba
CONSTRUCTION DEVELOPMENT
SYSTEMS; WESTERN SURETY
COMPANY, a South Dakota
corporation,

Counter-Defendant

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Plaintiff and Counter-Defendant JOHN C. BRISBIN, an individual, dba CONSTRUCTION DEVELOPMENT SYSTEMS (“CDS”), Counter-Defendant WESTERN SURETY COMPANY, a South Dakota corporation (“WESTERN”), and Defendant and Counter-Claimant CALMAT CO., a Delaware corporation, dba VULCAN MATERIALS COMPANY – WESTERN DIVISION (“VULCAN”), hereby agree and stipulate as follows:

RECITALS

WHEREAS, the Scheduling Order dated July 12, 2011 contains a deadline of October 31, 2011 for the completion of all discovery pertaining to non-experts.

WHEREAS, CDS, WESTERN and VULCAN have responded to, or are in the process of responding to, Interrogatories and Requests for Production of Documents propounded by the other party, and are obtaining documents from non-party witnesses, but have yet to commence depositions.

WHEREAS, CDS, WESTERN and VULCAN desire to conduct a private mediation on December 15, 2011, before Mediator James M. Phillips, Esq., and also desire to avoid taking all of the necessary depositions and completion of other discovery in the case prior to the conduct of the mediation, in order to save attorney’s fees and costs.

WHEREAS, CDS, WESTERN and VULCAN believe that they will be able to complete non-expert discovery by January 31, 2012, the same date as the current deadline for completion of expert discovery, without the need for continuing the dates currently scheduled for the Mandatory Settlement Conference, Pre-Trial

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Conference and Trial.

NOW, THEREFORE, IT IS HEREBY STIPULATED by and between CDS, WESTERN and VULCAN as follows:

1. The deadline for completion of non-expert discovery shall be continued from October 31, 2011, to January 31, 2012; and

2. No other provisions of the Scheduling Order dated July 12, 2011 are otherwise modified herein.

DATED: October 12, 2011 LANG, RICHERT & PATCH, PC

By: /s/ Matthew W. Quall
Matthew W. Quall
Attorneys for Plaintiff and Counter-Defendant
JOHN C. BRISBIN, an individual, dba
CONSTRUCTION DEVELOPMENT
SYSTEMS and Counter-Defendant
WESTERN SURETY COMPANY, a South
Dakota corporation

DATED: October 12, 2011 LIPSCHULTZ & SCHERAGO LLP

By: /s/ James D. Lipschultz
James D. Lipschultz
Attorneys for Defendant and Counter-Claimant
CALMAT CO., a Delaware corporation, dba
VULCAN MATERIALS COMPANY –
WESTERN DIVISION

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ORDER

Based upon the stipulation of the parties and good cause appearing therefor,

IT IS SO ORDERED.

Dated: **October 14, 2011**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE