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14 **BLACK & VEATCH CORPORATION**

15 **UNITED STATES DISTRICT COURT**  
16 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

18 **BLACK & VEATCH CORPORATION,**  
19  
20 Plaintiff,  
21  
22 vs.  
23 **MODESTO IRRIGATION DISTRICT,**  
24  
25 Defendant.

Case No. 1:11-cv-00695 LJO SKO

**STIPULATION AND  
ORDER REGARDING PENDING  
DISCOVERY MOTIONS**

Courtroom: **7**  
Judge: **Hon. Sheila K. Oberto**

Trial Date: July 16, 2013

24 AND RELATED ACTIONS.

**STIPULATION**

1  
2 Plaintiff and counter-defendant Black & Veatch Corporation (Black & Veatch), defendant  
3 and counter-claimant, Modesto Irrigation District (MID), and intervenor, City of Modesto (City),  
4 have reached a tentative agreement for settlement of the parties' respective claims in this  
5 litigation. MID and the City each plan to present the tentative settlement to MID's Board and to  
6 the City Council for their consideration and approval at their meetings scheduled for October 9,  
7 2012. To avoid the unnecessary expenditure of legal fees in the interim, Black & Veatch, MID  
8 and the City wish to briefly postpone certain deadlines with respect to the discovery motions  
9 pending before the Court that are listed below.

10 Accordingly, Black & Veatch, MID and the City hereby stipulate as follows:

11 1. With respect to Black & Veatch's motion to compel production by the City of  
12 arbitration-related communications that the City claims are protected by the joint defense  
13 privilege, which is scheduled for hearing before the Court on October 17, 2012, at 9:30 a.m.,  
14 Black & Veatch and MID agree to extend the due date for Black & Veatch's reply brief from  
15 October 5 to October 12, 2012.

16 2. With respect to Black & Veatch's motion to compel production of MID's 2008-present  
17 emails, Black & Veatch and MID agree to postpone their meet-and-confer, presently scheduled for  
18 October 5, at 2:30 p.m., to a mutually-agreeable time on October 10 or 11, 2012. Further, the  
19 parties agree, subject to the Court's approval, to continue the telephone hearing presently  
20 scheduled for October 10, at 4:30 p.m., to the week of October 15, 2012, on a day and time  
21 convenient to the Court.

22 3. With respect to Black & Veatch's motion to require MID to share in the cost of  
23 restoring MID's pre-2008 GroupWise emails, which is scheduled for hearing before the Court on  
24 October 31, 2012, at 9:30 a.m., Black & Veatch and MID agree to extend the due date for Black &  
25 Veatch's opening brief from October 5 to October 12, 2012, and the due date for MID's  
26 opposition brief from October 19 to October 26, 2012.

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1 DATED: October 5, 2012

WULFSBERG REESE COLVIG & FIRSTMAN  
PROFESSIONAL CORPORATION

2  
3 By                   /s/ Gregory R. Aker                    
4 Gregory R. Aker

5 Attorneys for Plaintiff and Counterdefendant  
6 BLACK & VEATCH CORPORATION

7 DATED: October 5, 2012

McCORMICK, BARSTOW, SHEPPARD,  
WAYTE & CARRUTH, LLP

8  
9 By           /s/ Stephen E. Carroll (as authorized on 10/5/12)            
10 Stephen E. Carroll

11 Attorneys for Defendant and Counterclaimant  
12 MODESTO IRRIGATION DISTRICT

13 DATED: October 5, 2012

DAVIDOVITZ & BENNETT, LLP

14  
15 By           /s/ Patricia S. Lakner (as authorized on 10/5/12)            
16 Patricia S. Lakner

17 Attorneys for Intervenor CITY OF MODESTO

18  
19  
20 **ORDER**

21 Pursuant to the above stipulation of the parties and the Court's schedule, IT IS HEREBY  
22 ORDERED that:

- 23 1. The due date for Black & Veatch's reply brief for its motion to compel the production of  
24 documents by City of Modesto (Doc. 162), regarding the production of arbitration-related  
25 communications, is CONTINUED to October 12, 2012;
- 26 2. The informal telephonic discovery conference concerning Black & Veatch's motion to  
27 compel the production of documents by Modesto Irrigation District (Doc. 125), regarding  
28 the issue of the time frame for Modesto Irrigation District to produce the 2008 to present

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emails, is CONTINUED to October 17, 2012, at 9:30 a.m.;

3. The briefing schedule for Black & Veatch’s motion to compel production of documents from Modesto Irrigation District (Doc. 125), as to the issue of sharing the costs of restoring Modesto Irrigation District’s pre-2008 emails, is CONTINUED as follows:
  - a. Black & Veatch’s opening brief is due on October 12, 2012; and
  - b. Modesto Irrigation District’s opposition brief is due on October 24, 2012;<sup>1</sup>
4. The hearing for **both** Black & Veatch’s motion to compel production of documents from City of Modesto of arbitration-related communications (Doc. 162), and Black & Veatch’s motion to compel of documents from Modesto Irrigation District related to the issue of cost-sharing (Doc. 125), shall be held on October 31, 2012, at 9:30 a.m. in Courtroom 7, before Magistrate Judge Sheila K. Oberto.

IT IS SO ORDERED.

Dated: October 9, 2012

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> Although the parties requested that Modesto Irrigation District’s opposition brief be due on October 26, 2012, to allow the Court sufficient time to consider the opposition prior to the October 31, 2012, hearing, the opposition will be due on October 24, 2012.