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11 TRI-DAM

12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA
14 FRESNO DIVISION

15 TRI-DAM,

16 Plaintiff,

17 v.

18 ANDREANA MICHAEL,

19 Defendant.

Case No. 1:11-cv-02138-AWI-SMS

**STIPULATION AND ORDER TO EXTEND
NON-EXPERT DISCOVERY DEADLINE
TO COMPLETE PREVIOUSLY SERVED
DISCOVERY**

20 Plaintiff Tri-Dam (“Tri-Dam”) and defendant Andreana Michael (“Michael”), by and
21 through their respective counsel of record, hereby submit the following Stipulation and Proposed
22 Order To Extend Non-Expert Discovery Deadline To Complete Previously Served Discovery.

RECITALS

23 1. This action commenced on December 27, 2011, with the filing of Tri-Dam’s
24 Complaint.

25 2. The Complaint seeks a permanent injunction against Michael related to shoreline
26 improvements on real property she owns in Calaveras County.

27 3. Michael answered the Complaint on April 19, 2012.

28 4. The Court’s Scheduling Order provided for a February 15, 2013, non-expert
discovery deadline.

5. On December 28, 2012, Tri-Dam's counsel mailed Requests for Production of Documents, Interrogatories, and Requests for Admissions, Set One ("Written Discovery"), to Michael's counsel at the correct street address, but inadvertently addressed to their old suite number (Suite 101), instead of the current one (Suite 900). The Written Discovery was not returned as undeliverable. On February 4, 2013, Tri-Dam's counsel inquired why they had not received responses to the Written Discovery. On February 5, Michael's counsel notified Tri-Dam's counsel that they had not received the Written Discovery by mail and that they believed service was improper. Tri-Dam re-served its Written Discovery requests to Michael at the correct suite number that same day. If February 5, 2013, is used as the date of service, Michael's responses to the Written Discovery would be due on March 12, 2013.

6. On January 17, 2013, Tri-Dam noticed Michael's deposition and the deposition of John Lupo ("Lupo") for February 15. Michael's counsel subsequently informed Tri-Dam's counsel that he was not available to attend the depositions on that day. On February 1, Michael noticed Tri-Dam's deposition on an unspecified date. The parties met and conferred and agreed to reschedule the depositions for February 19, 2013, and, if necessary, February 20, 2013.

7. In order to accommodate the schedules of the parties and counsel, and to avoid burdening the Court with motion practice, the parties agree to complete Michael's, Lupo's, and Tri-Dam's depositions, as well as Tri-Dam's Written Discovery, after the current February 15, 2013, non-expert discovery deadline. Accordingly, Tri-Dam and Michael believe good cause exists for a continuance of the current non-expert discovery deadline to March 12, 2013, for the limited purpose of completing this previously served discovery.

STIPULATION

Based on the foregoing recitals, Tri-Dam and Michael hereby STIPULATE that:

1. The non-expert discovery deadline is continued from February 15, 2013, to March 12, 2013, for the limited purpose of completing previously served discovery.

2. Michael's and Lupo's depositions will occur on February 19, 2013. Upon completion of those depositions, on February 19, 2013, and February 20, 2013, if necessary, Michael will take Tri-Dam's deposition.

3. Tri-Dam agrees that Michael's responses to the Written Discovery will be timely so long as they are served on or before March 12, 2013. Michael agrees that the Written Discovery is not untimely based on the original February 15, 2013, non-expert discovery deadline.

4. This continuance of the deadline to complete previously served non-expert discovery will not affect any other deadlines in this action.

5. All remaining dates and deadlines as set by the Court in its September 10, 2012, Scheduling Order, are otherwise unaffected by this Stipulation and Proposed Order.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: February 13, 2013

DOWNEY BRAND LLP

By: /s/ Thomas E. Marrs
THOMAS E. MARRS
Attorney for Plaintiff TRI-DAM

DATED: February 13, 2013

PARR LAW GROUP

By: /s/ Shawn R. Parr (as authorized on 2/13/13)
SHAWN R. PARR
Attorney for Defendant
ANDREANA MICHAEL

ORDER

This matter came before the Court on the Stipulation and Proposed Order To Extend Non-Expert Discovery Deadline To Complete Previously Served Discovery. For the reasons stated in the Stipulation and for good cause showing, the Court ADOPTS the Stipulation and GRANTS the relief requested therein.

Accordingly, IT IS HEREBY ORDERED THAT the non-expert discovery deadline is continued, from February 15, 2013, to March 12, 2013, for the limited purpose of completing previously served discovery.

IT IS SO ORDERED.

Dated: February 15, 2013



SENIOR DISTRICT JUDGE