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UNION PACIFIC RAILROAD COMPANY

14 **UNITED STATES DISTRICT COURT**
15 **EASTERN DISTRICT OF CALIFORNIA**
16

17 TREVOR WEEKS

18 Plaintiff,

19 v.

20 UNION PACIFIC RAILROAD COMPANY,
21 a Delaware Corporation

22 Defendant.

Case No. 1:13-cv-01641-AWI-JLT

**STIPULATION AND ORDER TO VACATE
OR CONTINUE TRIAL**

Complaint Filed: October 10, 2013
Trial Date: August 4, 2015

23
24 Plaintiff Trevor Weeks and Defendant Union Pacific Railroad Company (“UPRR”)
25 (collectively, the “Parties”) submit this stipulation to vacate or continue the trial date.

26 Trial is currently set for August 4, 2015. (ECF Nos. 11 and 32). On March 2, 2015, in
27 compliance with the Court’s Pretrial Scheduling Order, UPRR filed its Motion for Summary
28 Judgment, or Alternatively, Partial Summary Judgment. (ECF Nos. 25 and 32). Hearing on the

1 motion was set for April 6, 2015. (ECF No. 32). Plaintiff failed to timely file an Opposition and
2 the Court took the matter under submission. (ECF No. 28).

3 On April 9, 2015, Plaintiff filed an *ex parte* application to extend time to file an Opposition.
4 (ECF No. 31-32). On April 10, 2015, the Court granted Plaintiff's *ex parte* application and
5 permitted Plaintiff to file an Opposition to Summary Judgment. (ECF No. 32). In the Order, the
6 Court declined to reset the hearing date on the Summary Judgment Motion and indicated it would
7 only set the motion for hearing if it is necessary, after the Court reviews the papers. (ECF No. 32).

8 On April 20, 2015, Plaintiff filed his Opposition to Summary Judgment. (ECF No. 33). On
9 April 27, 2015, UPRR filed its Reply to Plaintiff's Opposition to Summary Judgment. (ECF No.
10 34). Pursuant to the Court's April 10, 2015 Order, the motion is taken under submission by the
11 Court with no oral argument scheduled.

12 Given the uncertainty of when the Court may rule on the Motion, to promote judicial
13 economy, and to keep the parties from expending resources to prepare the case for trial when there
14 is uncertainty regarding the outcome of the Summary Judgment Motion, the parties respectfully
15 request the Court vacate the trial date or continue trial until after it is sure to rule on the Summary
16 Judgment Motion. This request will promote judicial economy by freeing up the Court's calendar
17 to schedule trial in cases that are confirmed to need a trial, as well as not make the parties appear
18 for pretrial proceedings that are uncertain. This request will also conserve the Parties' resources in
19 not having to prepare for trial when the case may be dismissed on Summary Judgment.

20 Given these reasons, the Parties respectfully request the Court vacate the August 4, 2015
21 trial date. The Parties request the Court schedule a case management conference after it rules on
22 the summary judgment motion, and that the parties appear at the conference ready to set a trial
23 date. In the event the Court grants UPRR's summary judgment motion, a case management
24 conference will not be necessary.

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Respectfully submitted,

DATED: May 4, 2015

SMITH JOHNSON, INC.

By: /s/ William Smith (as authorized on 5/1/15)
William J. Smith

Attorneys for Plaintiff
TREVOR WEEKS

DATED: May 4, 2015

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

By: /s/ Jill V. Cartwright
Charles L. Thompson, IV
Jill V. Cartwright

Attorneys for Defendant
UNION PACIFIC RAILROAD COMPANY

PURSUANT TO STIPULATION, IT IS SO ORDERED,

The trial date is vacated until after the Court rules on Defendant's Motion for Summary Judgment. (ECF 25). Court will schedule a case management conference after it decides Defendant's Motion for Summary Judgment and the parties shall be prepared to set a trial date at that case management conference.

IT IS SO ORDERED.

Dated: May 4, 2015



SENIOR DISTRICT JUDGE