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10 Attorneys for Plaintiff  
 GALLO GLASS COMPANY

11  
 12 **IN THE UNITED STATES DISTRICT COURT**  
 13 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
 14

15 GALLO GLASS COMPANY,  
 16  
 Plaintiff,

17 v.

18 SPECIAL SHAPES REFRACTORY  
 19 COMPANY, INC., and NIKOLAUS SORG  
 GMBH & COMPANY KG,  
 20  
 Defendant.

Case No.: 1:16-CV-01446-LJO-BAM

**STIPULATION AND ~~PROPOSED~~ ORDER  
 TO EXTEND NIKOLAUS SORG GMBH &  
 COMPANY KG'S TIME TO RESPOND TO  
 COMPLAINT BY MORE THAN 28 DAYS**

Judge: District Judge Lawrence J. O'Neill  
 Magistrate Judge Barbara A. McAuliffe

Complaint Filed: September 28, 2016

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 22  
 23 Plaintiff Gallo Glass Company ("Gallo") and Defendant Nikolaus Sorg GmbH & Company  
 24 KG ("Sorg") (specially appearing), by and through their attorneys of record in this case, hereby  
 25 stipulate and agree that:

26 WHEREAS, a related action was filed by defendant Special Shapes Refractory Company,  
 27 Inc. ("Special Shapes"), in the United States District Court for the Northern District of Alabama,  
 28

1 Case No. 2:16-cv-01563-RDP on September 21, 2016 (“the Alabama Action”), but in which Sorg is  
2 not named as a party;

3 WHEREAS, Gallo moved to transfer the Alabama Action to this judicial district by motion  
4 filed in the Alabama Action on September 28, 2016;

5 WHEREAS, Gallo filed its Complaint in this action on September 28, 2016;

6 WHEREAS, Gallo served its Complaint in this action on Sorg effective October 3, 2016, and  
7 Sorg’s responsive pleading is presently due on October 24, 2016;

8 WHEREAS, the U.S. District Court for the Northern District of Alabama granted Gallo’s  
9 motion to transfer the Alabama Action, and directed the action be transferred to the U.S. District  
10 Court for the Eastern District of California on October 17, 2016;

11 WHEREAS, the parties have discussed, but have not agreed on exactly how the Alabama  
12 Action will be consolidated with this matter, particularly as to whether Special Shapes’ claims  
13 against Gallo will be pled as counter-claims to Gallo’s Complaint in this action, or vice-versa;

14 WHEREAS, Sorg requested and Gallo agreed to an extension of time of 45 days, to allow for  
15 the transfer and consolidation of the Alabama Action, of which Sorg is not a party, before Sorg  
16 responds to the Complaint in this action;

17 WHEREAS, the extension of time will not alter the date of any event or deadline already  
18 fixed by the Court;

19 WHEREAS, no extension of time for Sorg to respond to the Complaint has been requested  
20 previously;

21 WHEREAS, Local Rule 144(a) of the United State District Court for the Eastern District of  
22 California provides that the parties may stipulate to extend the time for responding to a complaint,  
23 and requires Court approval if the extension is longer than 28 days;

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1 NOW, THEREFORE, IT IS HEREBY STIPULATED by and between Gallo and Sorg,  
2 through their respective counsel, that Sorg may file its responsive pleading on or before Thursday,  
3 December 8, 2016.

4 **IT IS SO STIPULATED.**

5  
6  
7 Dated: October 21, 2016

**DUANE MORRIS LLP**

8  
9 By: /s/Robert C. Hendrickson (as authorized on 10/18/16)  
Robert C. Hendrickson

10 *Attorneys for Defendant*  
11 NIKOLAUS SORG GMBH & COMPANY KG

12 Dated: October 21, 2016

**COVINGTON & BURLING LLP**

13  
14 By: /s/Martin H. Myers (as authorized on 10/18/16)  
Martin H. Myers

15 *Attorneys for Plaintiff*  
16 GALLO GLASS COMPANY

17  
18 **ORDER**

19 The Court, having duly considered the stipulation of Plaintiff Gallo Glass Company and  
20 Defendant Nikolaus Sorg GmbH & Company KG set forth above, and good cause appearing, orders  
21 as follows:

22 Defendant Sorg's deadline to file a responsive pleading to Plaintiff's Complaint is extended  
23 to December 8, 2016.

24 **IT IS SO ORDERED.**

25  
26 Dated: October 21, 2016

/s/ Barbara A. McAuliffe  
27 UNITED STATES MAGISTRATE JUDGE

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