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Attorneys for Defendants Bakercorp and
United Rentals (North American), Inc.

11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF CALIFORNIA

14 VERTICAL TANK INC., a California
corporation,

15 Plaintiff,

16 v.

17 BAKERCORP, a Delaware corporation; and
18 UNITED RENTALS (NORTH AMERICA),
INC., a Delaware corporation.
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Case No. 1:18-CV-00145-LJO-JLT

STIPULATION AND ORDER

1 WHEREAS after Vertical Tank Inc. (“VTI”) filed its responsive claim construction brief
2 on December 21, 2018, a dispute arose between VTI and defendants Bakercorp and United
3 Rentals (North America), Inc. (“URNA”) (collectively, “Defendants”) regarding VTI’s use of
4 extrinsic evidence in the form the declaration of Michael Morgenthaler submitted with VTI’s
5 responsive claim construction brief. The parties thereafter met and conferred regarding this
6 dispute and came to an agreement among themselves to solve the dispute.

7 WHEREAS the parties agreed to select a date for a deposition of Mr. Morgenthaler within
8 two to three weeks and that VTI would make him available for a deposition at Defendants’
9 counsel’s office, and petition the Court for an extension of the time for the Claim Construction
10 hearing of approximately thirty days to allow Defendants to file a short supplemental response
11 addressing Mr. Morgenthaler’s opinions, and VTI’s arguments relying on those opinions.

12 WHEREAS after the parties arrived at the above agreement, the same day the Court issued
13 its order informing the parties that the Court believed the construction issues were fully presented
14 in the parties’ claim construction briefs and that no hearing on claim construction would be
15 conducted. At the time the above agreement was made VTI anticipated that it would have an
16 opportunity to argue contentions raised in the supplemental brief. Notwithstanding this
17 assumption, VTI is willing to abide by the agreement and therefore signs this stipulation.
18 However, VTI does so now without prejudice to the ability to petition the Court to file a short sur-
19 rebuttal brief if the Court grants the instant request.

20 IT IS HEREBY STIPULATED by the parties to this case, through their respective counsel,
21 that VTI shall make Mr. Morgenthaler available for his deposition no later than January 24 at a
22 mutually agreed upon office of Defendants’ counsel and that Defendants may file a supplemental
23 brief of no more than 10 pages addressing Mr. Morgenthaler’s opinions, and VTI’s arguments
24 based upon Mr. Morgenthaler’s opinions, no later than two weeks after Mr. Morgenthaler’s
25 deposition. The Court thereafter will issue its ruling on claim construction based on the parties’
26 claim construction briefs.

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IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: January 7, 2019

EASTMAN MCCARTNEY DALLMANN LLP

By: /s/ Tom McCartney
N. THOMAS MCCARTNEY
Attorneys for Plaintiff VERTICAL TANK, INC.

DATED: January 7, 2019

JEFFER MANGELS BUTLER & MITCHELL LLP

By: /s/ Gregory S. Cordrey
GREGORY S. CORDREY
Attorneys for Defendants BAKERCORP and
UNITED RENTALS (NORTH AMERICA), INC.

FOR GOOD CAUSE SHOWN,

IT IS SO ORDERED.

Dated: January 8, 2019

/s/ Lawrence J. O'Neill
UNITED STATES CHIEF DISTRICT JUDGE