

1 McCormick, Barstow, Sheppard,
Wayte & Carruth LLP
2 James P. Wagoner, #58553
Kevin D. Hansen, #119831
3 Brandon M. Fish, #203880
7647 North Fresno Street
4 Fresno, California 93720
Telephone: (559) 433-1300
5 Facsimile: (559) 433-2300

6 Attorneys for Plaintiff New York Marine
and General Insurance Company
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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION
10

11 ST. PAUL FIRE AND MARINE
INSURANCE COMPANY,

12 Plaintiff,

13 KINSALE INSURANCE COMPANY,

14 Defendant.
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16
17 NEW YORK MARINE AND
18 GENERAL INSURANCE COMPANY,
a Delaware corporation,

19 Plaintiff,

20 v.

21 KINSALE INSURANCE COMPANY,
22 an Arkansas corporation,

23 Defendant.
24

25 TRC OPERATING COMPANY, INC.,
a California corporation, TRC
26 CYPRESS GROUP, LLC, a California
Limited Liability Company,

27 Real Parties in Interest.
28

Case No. 1:20-cv-00967-JLT-BAK
(BAM)

Consolidated With Case No. 1:20-cv-
01085-NONE-JLT

**STIPULATION TO LIFT STAY
FOR LIMITED PURPOSE OF
OBTAINING A PROTECTIVE
ORDER AND [PROPOSED] ORDER**

Hon. Jennifer L. Thurston

Complaint Filed: August 5, 2020
Trial Date: None

[Concurrently Filed With Declaration of
James P. Wagoner; [Proposed]
Stipulated Protective Order]

1 Pursuant to Eastern District of California Local Rule 143, Plaintiff St. Paul Fire
2 and Marine Insurance Company (“St. Paul”) in case no. 1:20-cv-00967-NONE-JLT,
3 Plaintiff New York Marine and General Insurance Company (“New York Marine”) in
4 case no. 1:20-cv-01085-NONE-JLT, Defendant Kinsale Insurance Company
5 (“Kinsale”) in case nos. 1:20-cv-00967-NONE-JLT and 1:20-cv-01085-NONE-JLT,
6 Real Parties in Interest TRC Operating Company, Inc. and TRC Cypress Group, LLC
7 (collectively referred to as the “TRC Entities”) in case no. 1:20-cv-01085-NONE-
8 JLT, (St. Paul, New York Marine, Kinsale and the TRC Entities are collectively
9 referred to as the “Parties”), by and through their undersigned counsel, hereby
10 stipulate as follows:

11 WHEREAS, on July 10, 2020, St. Paul filed its Complaint against Kinsale in
12 Case No. 1:20-cv-00967-NONE-JLT alleging causes of action for declaratory relief,
13 equitable contribution, equitable indemnity, and equitable subrogation in connection
14 with Kinsale’s refusal to participate in the defense of the TRC Entities in *TRC v.*
15 *Chevron*;

16 WHEREAS, on August 5, 2020, New York Marine filed a Complaint against
17 Kinsale in Case No. 1:20-cv-01085-NONE-JLT alleging causes of action for
18 declaratory relief, equitable indemnity, equitable contribution, and equitable
19 subrogation in connection with Kinsale’s refusal to participate in the defense of the
20 TRC Entities in *TRC v. Chevron*;

21 WHEREAS, on November 6, 2020, the Court issued a Scheduling Order in
22 Case No. 1:20-cv-01085-NONE-JLT, which, among other things, establishes the
23 deadlines for discovery, non-dispositive motions, dispositive motions, and the final
24 pre-trial conference in this case (“Scheduling Order”);

25 WHEREAS, on February 2, 2021, the Court issued an Order granting the
26 stipulation to consolidate cases numbered 1:20-cv-01085 NONE JLT and 1:20-cv-
27 00967 NONE JLT (Dkt. No. 12), with the scheduling order issued in Case No. 1:20-
28 cv-01085 NONE JLT controlling the consolidated action;

1 WHEREAS, on November 11, 2021, the Parties filed a Stipulation and
2 [Proposed] Order Extending the Deadlines Set in the Scheduling Order in light of the
3 Court’s “Order of Clarification: No District Judge Available To Hear Matters” issued
4 on October 28, 2021 and the fact that a new trial was ordered in the underlying action
5 of *TRC Operating Co. v. Chevron*, Kern County Case No. S-1500-CV-282520-DRL
6 (“*TRC v. Chevron*”);

7 WHEREAS, based on the Parties’ November 11, 2021 Stipulation, the Court
8 stayed the consolidated action by order dated November 12, 2021 (Dkt. No. 24) (the
9 “Stay”);

10 WHEREAS, on November 17, 2021, counsel for the Parties had a conference
11 call to discuss the possibility of conducting a mediation while the stay was in effect,
12 the need to informally exchange information in order to make the mediation as
13 meaningful as possible, and the consequent need for a protective order before
14 exchanging some of that information which could not otherwise be exchanged.

15 WHEREAS, as a consequence of the discussion during the November 17th
16 conference call, the Parties have agreed to informally exchange documents and
17 information supporting their respective claims and defenses within a reasonable time
18 before any such mediation, including certain documents or tangible evidence which
19 might otherwise be “Confidential” had such documents or tangible evidence been
20 produced in discovery, provided that the Court agrees to lift the Stay solely for the
21 limited purpose of entry of a Stipulated Protective Order allowing for the exchange
22 of such information in accordance with its terms; and

23 WHEREAS, the Parties have agreed that such a protective order is necessary
24 before any information and documents are exchanged due to the nature of such
25 information and documents and because *TRC v. Chevron* is still pending;

26 THEREFORE, based on the foregoing, the Parties hereby stipulate and agree,
27 and respectfully request that the Court order the following;

- 28 1. The Stay ordered on November 12, 2021 be lifted only for the limited

1 purpose of allowing the Parties to submit their Stipulated Protective Order and for the
2 Court to issue an appropriate Order thereon, after which the previously ordered Stay
3 shall be automatically reinstated.

4 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

5 Dated: January 26, 2022

McCLOSKEY, WARING, WAISMAN &
DRURY LLP

7
8 By: /s/ Sonia S. Waisman (as approved 1/13/22)
9 Sonia S. Waisman
10 Attorneys for Plaintiff St. Paul Fire and Marine
Insurance Company

11 Dated: January 26, 2022

McCORMICK, BARSTOW, SHEPPARD,
WAYTE & CARRUTH LLP

13 By: _____
14 James P. Wagoner
15 Kevin D. Hansen
16 Brandon M. Fish
17 Attorneys for Plaintiff New York Marine and
General Insurance Company

18 Dated: January 26, 2022

NEMECEK & COLE

19 By: /s/Matthew J. Hafey (as approved 1/26/22)
20 Matthew J. Hafey
21 Attorneys for Defendant Kinsale Insurance
Company

1 Dated: January 26, 2022

PLEDGER LAW, PC

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By: /s/Jean M. Pledger (as approved 1/13/22)
Jean M. Pledger
Attorneys for Real Parties in Interest TRC
Operating Company, Inc. and TRC Cypress
Group, LLC

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ORDER

The Court, having reviewed the Stipulation and Supporting Declaration of James P. Wagoner, and good cause showing, HEREBY ORDERS as follows:

1. The stay ordered on November 12, 2021 is lifted for the limited purpose of allowing the Parties to file a Stipulated Protective Order and for the Court to rule thereon after which the previously ordered stay shall be automatically reinstated.

IT IS SO ORDERED.

Dated: January 31, 2022

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE