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17 **UNITED STATES DISTRICT COURT**
 18 **EASTERN DISTRICT OF CALIFORNIA**

19 AMERIPRIDE SERVICES INC., a
 20 Delaware corporation,

21 Plaintiff,

22 vs.

23 VALLEY INDUSTRIAL SERVICES, INC.,
 a former California Corporation, et al.

24 Defendants.

Case No. CIV. 2-00-113 MCE-DB

**STIPULATION AND ORDER
 REGARDING PROCEDURE FOR
 SUBMITTING DEPOSITION TESTIMONY
 AT TRIAL**

Trial Date: October 17, 2016
 Complaint Filed: January 20, 2000

25 AND CONSOLIDATED ACTION AND
 26 CROSS AND COUNTER-CLAIMS.

1 Plaintiff AMERIPRIDE SERVICES INC. (“AmeriPride”) and Defendant TEXAS
2 EASTERN OVERSEAS, INC. (“TEO”), by and through their respective counsel, stipulate
3 with respect to the procedure for submitting deposition testimony at trial, as follows:

4 **RECITALS**

5 1. Following remand from the Ninth Circuit Court of Appeals, the Court issued
6 its July 20, 2015 Pretrial Scheduling Order (“Order”). Dkt. 988.¹ The Court subsequently
7 issued a Minute Order continuing the trial date and deadlines for pretrial submissions
8 (“Minute Order”). Dkt. 1024.

9 2. Pursuant to the Order and the Minute Order, the Court has set a one (1) day
10 bench trial for Monday, October 17, 2016.

11 3. To expedite the trial, the Parties have stipulated that deposition testimony
12 given in this civil action, including any civil action with which this civil action has been
13 consolidated, may be used at trial in lieu of calling a live witness.

14 4. As required by the Order and pursuant to Local Rule 281, the Parties will list
15 all witnesses they propose to offer at trial in the Joint Pretrial Conference Statement.

16 5. The parties will provide notice of their intent to call any witness listed on their
17 respective witness lists by deposition no later than 7 days after the final pretrial
18 conference.

19 6. Designation of deposition testimony will be as follows:

20 a. Within fifteen (15) days of giving notice of intent to call a witness by
21 deposition, the party proposing to call a witness by deposition shall
22 designate those portions of the deposition testimony and any deposition
23 exhibits discussed within those portions;

24 b. Twenty-one (21) days later, the other party shall file and serve counter
25 designations of deposition testimony and deposition exhibits, along with
26 any objections to the designated deposition testimony and exhibits;

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¹ “Dkt.” Refers to the Court’s ECF Docket number for this case.

- 1 c. As used herein, the term “counter designations” means any testimony
2 from the same deposition as the designated testimony. The counter
3 designation need not otherwise rebut, contradict, or otherwise relate to
4 the designated testimony;
- 5 d. Any responses to objections to the designated testimony and/or exhibits
6 and any objections shall be served and filed 14 days thereafter; and
- 7 e. Any responses to the objections to the counter designated testimony
8 and/or exhibits shall be served and filed 7 days thereafter.

9 7. The designation by any party of its intent to utilize the deposition testimony of
10 a witness shall not prohibit any party from calling that witness to testify live at trial,
11 provided the live testimony is not cumulative.

12 8. The Parties stipulate that deposition exhibits discussed within designated
13 deposition testimony must be designated in accordance with the schedule outlined in
14 Paragraph 5 of this stipulation. However, nothing in this stipulation shall preclude the
15 Parties from designating deposition exhibits on its Exhibit List addenda to the Joint
16 Pretrial Statement.

17 9. The Parties have agreed to jointly file deposition transcripts with the Court
18 which contain color-coded designations as follows:

- 19 a. AmeriPride’s initial designations are denoted by red boxes surrounding
20 the text of the initial designation;
- 21 b. TEO’s initial designations are denoted by blue boxes surrounding the
22 text of the initial designation;
- 23 c. AmeriPride’s counter designations are denoted by red lines underlining
24 the text of the counter designation; and
- 25 d. TEO’s counter designations are denoted by blue lines underlining the
26 text of the counter designation.

27 10. The Parties agree that the trial should proceed as efficiently as possible.
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Date: August 8, 2016

WILSON, ELSER, MOSKOWITZ, EDELMAN &
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Date: August 8, 2016

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Date: August 8, 2016

PERKINS MANN & EVERETT, APC

By: /s/ Lee N. Smith
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AMERIPRIDE SERVICES INC.

1 **ORDER**

2 The parties' stipulation regarding the use of deposition testimony at trial (ECF
3 No. 1057) is hereby adopted as an order of this Court.

4 IT IS SO ORDERED.

5 Dated: August 10, 2016

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7 MORRISON C. ENGLAND, JR.
8 UNITED STATES DISTRICT JUDGE

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