

KING WILLIAMS LLP
520 CAPITOL MALL, SUITE 750
SACRAMENTO, CA 95814
TEL: (916) 379-7530 / FAX: (916) 379-7535

1 JENNIFER HARTMAN KING (Bar No. 211313)
2 ALANNA C. LUNGREN (Bar No. 269668)
3 TYLER BOWLIN (Bar No. 305715)
4 KING WILLIAMS LLP
5 520 Capitol Mall, Suite 750
6 Sacramento, CA 95814
7 Telephone: (916) 379-7530
8 Facsimile: (916) 379-7535
9 JHartmanKing@KingWilliamsLaw.com
10 ALungren@KingWilliamsLaw.com
11 TBowlin@KingWilliamsLaw.com

7 BEST, BEST & KRIEGER LLP
8 HARRIET A. STEINER (Bar No. 109436)
9 500 Capitol Mall, Suite 1700
10 Sacramento, CA 95814
11 Telephone: (916) 325-4000
12 Facsimile: (916) 325-4010
13 Harriet.Steiner@bbklaw.com

Exempt From Filing Fees Pursuant To
Government Code Section 6103

11 Attorneys for Counter Claimant
12 CITY OF DAVIS

13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF CALIFORNIA

16 CHARLES H. LEWIS AND JANE W.
17 LEWIS,

18 Plaintiffs,

19 v.

20 ROBERT D. RUSSELL, ET AL.,

21 Defendants,

Case No.: CIV S-03-2646 WBS AC

**STIPULATION TO EXTEND TRIAL
AND OTHER DEADLINES SET FORTH
IN PRETRIAL SCHEDULING ORDER**

[PROPOSED] ORDER

[LR 144]

Trial Date: October 31, 2017

22
23 AND RELATED COUNTER, CROSS AND
24 THIRD-PARTY CLAIMS.

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28 00016125.2

1 **STIPULATION**

2 Counter Claimant City of Davis (the “City”); Counter Claimants The Davis Center, LLC,
3 Emily A. Stover, individually and as Trustee of the Stover Family Trust and as Personal
4 Representative for Melvin Stover (Deceased), and Richard Albert Stinchfield, individually and as
5 Trustee of the Robert S. Stinchfield Separate Real Property Trust and as Trustee of the Barbara
6 Ellen Stinchfield Testamentary Trust (collectively, “Landowners”); Counter Claimants Potter
7 Taylor & Co., Potter, Long, Adams & Taylor Ltd., Davis Center, Potter-Taylor, Inc., Potter
8 Taylor & Scurfield, Inc. (collectively, “Potter-Taylor”); and Counter Defendants Charles H.
9 Lewis (Deceased) and Jane W. Lewis (Deceased) (“Lewis”) (The City, Landowners, Potter-
10 Taylor and Lewis are referred to collectively herein as the “Participating Parties”), by and through
11 their respective counsel, hereby stipulate as follows:

12 WHEREAS, on August 12, 2013, The Davis Center moved to amend the scheduling order
13 (Docket No. 447) and the Participating Parties stipulated to extend the deadlines to disclose experts
14 (Docket No. 458). On August 30, 2013, the Court entered Orders granting the Motion (Docket No.
15 457) and approving the Stipulation (Docket No. 460).

16 WHEREAS, on February 28, 2014, the Participating Parties entered into a further stipulation
17 to amend the scheduling order to allow time to produce and compile data associated with the
18 investigative study (Docket No. 472). On March 3, 2014, the Court entered an Order approving the
19 Stipulation (Docket No. 474).

20 WHEREAS, on August 15, 2014, the Participating Parties entered into a further stipulation to
21 amend the scheduling order to allow time to produce and compile additional data associated with the
22 site investigation (Docket No. 475). On August 19, 2014, the Court entered an Order approving the
23 Stipulation (Docket No. 477).

24 WHEREAS, on December 12, 2014, the Participating Parties entered into a further stipulation
25 to amend the scheduling order to allow time to develop a cost estimate and work plan for the proposed
26 remediation (Docket No. 478). On the same day, the Court entered an Order approving the
27 Stipulation (Docket No. 479).

28 WHEREAS, on June 2, 2015, the Participating Parties entered into a further stipulation to

1 amend the scheduling order to allow additional time to develop a cost estimate and work plan for the
2 proposed remediation and to enter into possible mediation in an effort to resolve the case (Docket No.
3 480). On June 15, 2015, the Court entered an Order approving the Stipulation (Docket No. 481).

4 WHEREAS, the Participating Parties held a mediation in December of 2015, and since
5 that time have continued to negotiate settlement terms among themselves and with the California
6 Regional Water Quality Control Board, Central Valley Region.

7 WHEREAS, on December 21, 2016, in light of progress in settlement negotiations, the
8 Participating Parties entered into a further stipulation to amend the scheduling order to allow
9 additional time to draft settlement documents and secure approval of those terms by all
10 Participating Parties (Docket No. 511). On December 22, 2016, the Court entered an Order
11 approving the Stipulation (Docket No. 512). Under that Order, the trial in this matter is set to
12 commence on October 31, 2017.

13 WHEREAS, on March 7, 2017, counsel for Lewis filed a Statement of Fact of Death in
14 the above-captioned action (“Action”), suggesting upon the record the death of Charles H. Lewis
15 and Jane W. Lewis (Docket No. 518).

16 WHEREAS, on May 22, 2017, the Superior Court of California for Yolo County duly
17 appointed Robert Zehnder as Personal Representative of Charles H. Lewis in Case Number
18 PB17-94.

19 WHEREAS, on June 15, 2017, the Participating Parties transmitted various settlement
20 documents to the California Regional Water Quality Control Board, Central Valley Region, for its
21 review and approval.

22 WHEREAS, on June 22, 2017, the Participating Parties entered into a stipulation agreeing
23 to substitute: 1) Robert Zehnder, as Personal Representative of Charles H. Lewis as a party to this
24 Action in place of Charles H. Lewis (Deceased) and Jane W. Lewis (Deceased) for purposes of
25 the City’s counter claims against Lewis only; and 2) the Estate of Charles H. Lewis (Deceased) as
26 a party to this Action in place of Charles H. Lewis (Deceased) and Jane W. Lewis (Deceased) for
27 purposes of the Landowner’s and Potter-Taylor’s respective counter claims against Lewis only
28 (Docket No. 526).

1 WHEREAS, the Participating Parties, believe they have reached agreement on the major
2 terms of settlement and have prepared the various settlement documents, but require additional
3 time in order to secure approval of the settlement documents from the California Regional Water
4 Quality Control Board, Central Valley Region, a process that is likely to require at least another
5 three months; and

6 WHEREAS, due to the upcoming October 31, 2017, trial date, proceeding toward trial on the
7 current schedule would unnecessarily direct the Participating Parties' resources to trial preparation.
8 An extension of the existing deadlines by three months will allow the Participating Parties to focus
9 their resources on coordinating with one another and the California Regional Water Quality Control
10 Board, Central Valley Region, in an effort to finalize the settlement among the Participating Parties
11 and avoid the need for trial.

12 NOW THEREFORE, the Participating Parties hereby stipulate to extend the existing
13 deadlines to the following dates:

- 14 1. Dispositive motion filing deadline is reset to September 25, 2017;
- 15 2. Final pretrial conference is reset to November 20, 2017 at 1:30 p.m.;
- 16 3. Jury trial is reset for January 30, 2018 at 9:00 a.m.

17 Dated: June 23, 2017

Respectfully submitted,

18 Law Offices of Francis M. Goldsberry

19 By: /s/ Francis M. Goldsberry (as authorized on June 19, 2017)
20 Francis M. Goldsberry

21 Attorneys for Counter Claimants Potter-Taylor & Co.; Potter, Long,
22 Adams & Taylor, Ltd.; Davis Center; Potter-Taylor, Inc. and Potter
Taylor & Scurfield, Inc.

23 Dated: June 23, 2017

Respectfully submitted,

24 King Williams LLP

25 By: /s/ Jennifer Hartman King
26 Jennifer Hartman King

27 Attorneys Counter Claimant City of Davis

28 Dated: June 23, 2017

Respectfully submitted,

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Koeller, Nebeker, Carlson & Haluck, LLP

By: /s/ Peter Dye (as authorized on June 22, 2017)
Peter Dye

Attorneys for Counter Claimants The Davis Center, LLC; Emily A. Stover, individually and as Trustee of the Stover Family Trust and as Personal Representative for Melvin Stover (Deceased); and Richard Albert Stinchfield, individually and as Trustee of the Robert S. Stinchfield Separate Real Property Trust and as Trustee of the Barbara Ellen Stinchfield Testamentary Trust

Dated: June 23, 2017

Respectfully submitted,
Schuering Zimmerman & Doyle LLP

By: /s/ Keith D. Chidlaw (as authorized on June 19, 2017)
Keith D. Chidlaw

Attorneys for Counter Defendants Charles H. Lewis (Deceased) and Jane W. Lewis (Deceased), Robert Zehnder, as Personal Representative of Charles H. Lewis, and Estate of Charles H. Lewis (Deceased)


ORDER

For good cause and pursuant to the above stipulation of the Participating Parties, IT IS
HEREBY ORDERED that:

- 1. Dispositive motion filing deadline is reset to September 25, 2017;
- 2. Final pretrial conference is reset to **November 20, 2017 at 1:30 p.m.**;
- 3. **Jury trial is set for January 30, 2018 at 9:00 a.m.**

IT IS SO ORDERED.

Dated: June 23, 2017



 WILLIAM B. SHUBB
 UNITED STATES DISTRICT JUDGE