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Exempt From Filing Fees Pursuant To
Government Code Section 6103

19 Attorneys for Counter Claimant
20 CITY OF DAVIS

21 **UNITED STATES DISTRICT COURT**
22 **EASTERN DISTRICT OF CALIFORNIA**

23 CHARLES H. LEWIS AND JANE W.
24 LEWIS,

25 Plaintiffs,

26 v.

27 ROBERT D. RUSSELL, ET AL.,

28 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: January 30, 2018

29 AND RELATED COUNTER, CROSS AND
30 THIRD-PARTY CLAIMS.

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 (Doc. No. 447) and the Participating Parties stipulated to extend the deadlines to disclose experts
14 (Doc. No. 458). On August 30, 2013, the Court entered Orders granting the Motion (Doc. No. 457)
15 and approving the Stipulation (Doc. 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 (Doc. No. 472). On March 3, 2014, the Court entered an Order approving the
19 Stipulation (Doc. 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 (Doc. No. 475). On August 19, 2014, the Court entered an Order approving the
23 Stipulation (Doc. 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 (Doc. No. 478). On the same day, the Court entered an Order approving the Stipulation
27 (Doc. 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 (Doc. No.
3 480). On June 15, 2015, the Court entered an Order approving the Stipulation (Doc. 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 (Doc. No. 511). On December 22, 2016, the Court entered an Order
11 approving the Stipulation (Doc. 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 (Doc. 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 (Doc. No. 526).

1 WHEREAS, on June 22, 2017, in light of the Participating Parties' progress in having
2 prepared the various settlement documents and efforts in the process to secure approval of the
3 settlement documents from the California Regional Water Quality Control Board, Central Valley
4 Region, the Participating Parties entered into a further stipulation to amend the scheduling order
5 and extend the deadlines by three months (Doc. No. 527). On June 23, 2017, the Court entered an
6 Order approving that stipulation (Doc. No. 529). Under that Order, the trial in this matter is set to
7 commence on January 30, 2018.

8 WHEREAS, as previously mentioned to the Court's clerk, the City plans to file a
9 dispositive motion as to the non-participating parties, Jung Hang Suh and Soo Jung Suh, and in
10 order to accommodate the Court's hearing calendar, and specifically in light of the upcoming pre-
11 trial conference date of November 20, 2017, the Court advised the City that the pre-trial
12 conference date would need to be rescheduled;

13 WHEREAS, the Participating Parties, believe they have reached agreement on the major
14 terms of settlement, have prepared the various settlement documents and are in the stages of
15 finalizing those documents, but continue to require additional time in order to secure approval of
16 the settlement documents from the California Regional Water Quality Control Board, Central
17 Valley Region, the process for which includes a public notice and comment period, and will
18 likely require at least another three months to complete; and

19 WHEREAS, due to the upcoming January 30, 2018, trial date, proceeding toward trial on the
20 current schedule would unnecessarily direct the Participating Parties' resources to trial preparation.
21 As well, rescheduling the pre-trial conference date is necessary to accommodate the Court's hearing
22 availability for dispositive motions in this Action. An extension of the existing deadlines by
23 approximately three months will allow the Participating Parties to focus their resources on
24 coordinating with one another and the California Regional Water Quality Control Board, Central
25 Valley Region, in an effort to finalize the settlement among the Participating Parties and avoid the
26 need for trial.

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28 ///

1 NOW THEREFORE, the Participating Parties hereby stipulate to extend the existing
2 deadlines to the following dates:

- 3 1. Dispositive motion filing deadline is reset to December 15, 2017;
- 4 2. Final pre-trial conference is reset to February 20, 2018, or at such time that is
5 convenient for the Court;
- 6 3. Jury trial is reset for April 30, 2018, or at such time that is convenient for the Court.

7 Dated: September 21, 2017 Respectfully submitted,

8 Law Offices of Francis M. Goldsberry

9 By: /s/ Francis M. Goldsberry (as authorized on Sept. 21, 2017)
10 Francis M. Goldsberry

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

13 Dated: September 21, 2017 Respectfully submitted,

14 King Williams LLP

15 By: /s/ Jennifer Hartman King
16 Jennifer Hartman King

17 Attorneys for Counter Claimant City of Davis

18 Dated: September 22, 2017 Respectfully submitted,

19 Koeller, Nebeker, Carlson & Haluck, LLP

20 By: /s/ Peter Dye (as authorized on Sept. 22, 2017)
21 Peter Dye

22 Attorneys for Counter Claimants The Davis Center, LLC; Emily A.
23 Stover, individually and as Trustee of the Stover Family Trust and
24 as Personal Representative for Melvin Stover (Deceased); and
25 Richard Albert Stinchfield, individually and as Trustee of the
26 Robert S. Stinchfield Separate Real Property Trust and as Trustee
27 of the Barbara Ellen Stinchfield Testamentary Trust
28

1 Dated: September 21, 2017 Respectfully submitted,
2 Schuering Zimmerman & Doyle LLP

3 By: /s/ Keith D. Chidlaw (as authorized on Sept. 21, 2017)
4 Keith D. Chidlaw

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

8 **[PROPOSED] ORDER**

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

- 11 1. Dispositive motion filing deadline is reset to December 15, 2017;
- 12 2. Final pre-trial conference is reset to **February 26, 2018 at 1:30 p.m.**;
- 13 3. Jury trial is reset for **May 1, 2018 at 9:00 a.m.**

14 **IT IS SO ORDERED.**

15 Dated: September 22, 2017

16 

17 WILLIAM B. SHUBB
18 UNITED STATES DISTRICT JUDGE