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Attorneys for Defendant
UNION PACIFIC RAILROAD COMPANY

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

PETER ECKERT,

Plaintiff,

v.

CITY OF SACRAMENTO, UNION PACIFIC
RAILROAD COMPANY,

Defendants.

Case No. 2:07-cv-00825-GEB-GGH

**STIPULATION AND [PROPOSED]
ORDER CONTINUING THE EXPERT
DISCLOSURE AND REBUTTAL EXPERT
DISCLOSURE DEADLINES**

Action Filed: May 1, 2007
Trial Date: January 26, 2010

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1 **STIPULATION**

2 **IT IS HEREBY STIPULATED AND AGREED** by and between Plaintiff Peter Eckert
3 (“Plaintiff”) and his attorneys of record, Thomas N. Stewart, III, attorney at law, Defendant City of
4 Sacramento (the “City”), by its attorneys of record, by David S. Womack, Deputy City Attorney,
5 and Defendant Union Pacific Railroad Company (“Union Pacific”), by its attorneys of record
6 Ogletree, Deakins, Nash, Smoak & Stewart, P.C., by Gregory C. Cheng, attorney at law, that the
7 following Stipulation may be entered as an Order by the Court to give effect to the stipulations set
8 forth below:

9 1. **WHEREAS**, Plaintiff Peter Eckert filed his initial Complaint on May 1, 2007;

10 2. **WHEREAS**, on or about January 24, 2008, Defendant Union Pacific Railroad
11 Company was served with the First Amended Complaint;

12 3. **WHEREAS**, on April 16, 2008, this Court modified the Pretrial Scheduling Order
13 (“PSO”) pursuant to the parties’ stipulation and ordered the following dates: Discovery due by
14 June 17, 2009; Last Hearing Date for Law and Motion heard by August 17, 2009; Designation of
15 Expert Witnesses and Reports due by January 17, 2009; Rebuttal Expert Witnesses and Reports
16 due by February 17, 2009; Final Pretrial Conference set for October 26, 2009 at 1:30 p.m.; and
17 Trial set for January 26, 2010;

18 4. **WHEREAS**, counsel for all Parties have been engaged in several discussions
19 regarding the potential legal role of each defendant, possible settlement, what Plaintiff believes is
20 required with regard to remediation, and practical ramifications which may arise in the future;

21 5. **WHEREAS**, but because of the nature of the lawsuit, Defendants require additional
22 time to assess its individual liability as well as the legal and practical ramifications of the different
23 settlement options which involve various state agencies not involved in this lawsuit;

24 6. **WHEREAS**, there is a strong likelihood that if the Parties have an additional 120
25 days to designate an expert and prepare a report, they will have a realistic opportunity to resolve
26 this dispute, informally or through mediation, without the need for a trial. At this juncture,
27 however, having to incur additional expenses to retain an expert and submit a report would
28 undermine the Parties’ progress in attaining potential resolution;

1 7. **WHEREAS**, Defendants agree to make a proposal for resolution to Plaintiff on or
2 before March 31, 2009;

3 8. **WHEREAS**, the Parties will participate in a settlement conference within 60 days
4 of March 31, 2009; and

5 9. **WHEREAS**, the continuance of the expert and rebuttal expert designation and
6 report deadlines will not prejudice the current scheduled trial date of January 26, 2010.

7 **NOW, THEREFORE**, the Parties, through their respective counsel of record **AGREE**
8 **AND HEREBY STIPULATE** to continue the expert witness designation and report deadlines
9 from January 17, 2009 to May 17, 2009, and to continue the rebuttal expert witness designation
10 and report deadline from February 17, 2009 to June 17, 2009. All other dates shall remain the
11 same.

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13 DATED: January 15, 2009

LAW OFFICES OF THOMAS N. STEWART, III

14
15 By: /s/ Thomas Stewart

Thomas N. Stewart, III

16 Attorneys for Plaintiff

17 PETER ECKERT

18 DATED: January 12, 2009

SACRAMENTO CITY ATTORNEY'S OFFICE

19
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21 By: /s/ David Womack

David S. Womack

22 Attorneys for Defendant

23 CITY OF SACRAMENTO
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27
28

1 DATED: January 15, 2009

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

4 By: /s/ Gregory Cheng

Gregory C. Cheng

Attorneys for Defendant

UNION PACIFIC RAILROAD COMPANY

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8 **ORDER**

9 **IT IS ORDERED** that the expert witness designation and report deadline is continued from
10 January 17, 2009 to May 17, 2009, and the rebuttal expert witness designation and report deadline
11 is continued from February 17, 2009 to June 17, 2009. All other dates shall remain the same.

12 2/3/09

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14 GARLAND E. BURRELL, JR.
United States District Judge