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 16 ALBEMARLE CORPORATION

17 **UNITED STATES DISTRICT COURT**
 18 **EASTERN DISTRICT OF CALIFORNIA**
 19 **SACRAMENTO DIVISION**

20 ENVIRO TECH CHEMICAL SERVICES,
 21 INC., a California corporation,

22 Plaintiff,

23 vs.

24 ALBEMARLE CORPORATION, a Virginia
 25 corporation,

26 Defendant.

27 **Case No.: 2:08-CV-00374 KJM**

28 **STIPULATION AND ORDER TO
 MODIFY THE JUNE 11, 2009
 SCHEDULING ORDER**

AND RELATED COUNTERCLAIM.

Defendant Albemarle Corporation and Plaintiff Enviro Tech Chemical Services, Inc., by and through their undersigned counsel, hereby stipulate, pursuant to Local Rule 83-143, and mutually request to further extend certain dates appearing in the current Modified Scheduling Order, document no. 38, filed on June 11, 2009.

The parties exchanged initial disclosures on November 7, 2008. As required by the present Scheduling Order, Plaintiff disclosed asserted claims and preliminary infringement contentions on March 16, 2009. The parties thereafter agreed to seek to extend all scheduled dates as needed so as to continue settlement negotiations and avoid further discovery.

1 The parties are now on the verge of finalizing their long-negotiated settlement agreement
2 and believe that only a final meeting and exchange of data is necessary to conclude this matter.
3 As such, they do not wish to expend resources on the disclosure of litigation contentions or the
4 production of documents and, therefore, ask the Court, one further time, to extend the remaining
5 dates in the Scheduling Order by 30 days. The parties believe that such an extension will
6 conserve judicial resources.

7 DATED: August 17, 2009

MCGLINCHEY STAFFORD, PLLC

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10 By /s/ Joel W. Mohrman
Joel W. Mohrman
11 Attorneys for Defendant ALBEMARLE
CORPORATION, a Virginia corporation

12 DATED: August 17, 2009

BULLIVANT HOUSER BAILEY PC

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15 By /s/ Michael S. Wilcox
M. Taylor Florence
Michael S. Wilcox
16 Attorneys for Defendant ALBEMARLE
CORPORATION, a Virginia corporation

17 DATED: August 17, 2009

WEINTRAUB GENSHLEA CHEDIAK

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20 By /s/ Audrey A. Millemann
Audrey A. Millemann
21 Attorneys for Plaintiff ENVIRO TECH
CHEMICAL SERVICES, INC., a California
22 corporation

1 ORDER

2 Pursuant to the foregoing stipulation of the parties, the current scheduling order is
3 modified as follows:

- 4 1. March 16, 2009 Plaintiff filed its disclosure of asserted claims and
5 preliminary infringement contentions with supporting
6 documents.
7 **After this date**, it is necessary to obtain leave of court to
8 add and/or amend infringement contentions.
9 **Join additional parties.** It is not necessary to file a
10 motion to join additional parties before this date.
11 Thereafter, it is necessary to obtain leave of court to join
12 additional parties.
13 **Add new patents and/or claims for patents-in-suit.** It is
14 not necessary to file a motion to add patents or claims
15 2. September 15, 2009 Defendant to file its preliminary invalidity contentions
16 with supporting documents. Thereafter, it is necessary to
17 obtain leave of court to add and/or amend invalidity
18 contentions.
19 **Add any inequitable conduct allegations to pleadings.**
20 Before this date, it is not necessary to file a motion for
21 leave to add inequitable conduct allegations to pleadings.
22 Thereafter, it is necessary to obtain leave of court to add
23 inequitable conduct allegations to pleadings.
24 Deadline for initial document production.
25 3. October 5, 2009 Parties to exchange proposed terms and claim elements for
26 construction.
27 4. October 19, 2009 Parties to exchange preliminary claim constructions and
28 identify extrinsic evidence. Privilege logs to be exchanged
by parties (or a letter to the court stating that there are no
disputes as to claims of privileged documents).
5. November 30, 2009 Parties to file their joint claim construction and prehearing
statement. The statement is to include an expert witness
designation and report on claims construction issues under
Rule 26(a)(2).
6. November 30, 2009 Deadline for amended pleadings.
7. December 14, 2009 Responses to amended pleadings due.

- 1 8. December 21, 2009 Parties to complete discovery on claim construction,
2 including expert depositions.
- 3 9. January 19, 2010 Plaintiff to file its claim construction brief with supporting
4 evidence. Two sets of binders to be provided to the court.
- 5 10. February 2, 2010 Defendant to file its responsive claim construction brief
6 with supporting evidence. Two sets of binders to be
7 provided to the court.
- 8 11. February 9, 2010 Plaintiff to file its reply claim construction brief with
9 supporting evidence. Two sets of binders to be provided
10 to the court.
- 11 12. February 23, 2010 Parties to submit claim construction chart in WordPerfect
12 8.0 (or higher) format.
- 13 13. April 16, 2010 *Markman* hearing to be held beginning at 9:00 a.m. before
14 Judge Mueller.

15 If further proceedings are necessary after the *Markman* hearing, a further status
16 conference will be set to establish the further discovery, pre-trial and trial schedule.

17 IT IS SO ORDERED:

18 DATED: August 20, 2009.

19 11856363.1

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21 _____
22 U.S. MAGISTRATE JUDGE

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