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[The Names and Parties submitting this Document are listed on the two pages immediately following this Caption Page]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, and CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL,
Plaintiffs,
v.
STERLING CENTRECORP INC., STEPHEN P. ELDER and ELDER DEVELOPMENT, INC.,
Defendants.

No. 2:08-cv-02556-MCE-DB

JOINT STIPULATION AND ORDER GRANTING EXTENSION FOR PLAINTIFFS' REPLY BRIEFS IN SUPPORT OF MOTIONS FOR ENFORCEMENT COSTS

Judge: Hon. Morrison C. England, Jr.
Trial Date: Not Scheduled

[Complaint Filed: October 27, 2008]

JOINT STIPULATION AND ORDER RE: EXTENSION FOR REPLY BRIEFS AND HEARING ON MOTION FOR ENFORCEMENT COSTS
United States et al. v. Sterling Centrecorp Inc. et al., No. 2:08-CV-02556-MCE-DB

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ATTORNEYS FOR DEFENDANT STERLING CENTRECORP, INC.

1 WHEREAS, on March 25, 2009, the Court entered the Bifurcation Order (ECF No. 26)
2 separating the discovery and trial of defendants' liability ("Phase I") from the discovery and trial
3 on Plaintiffs' entitlement to response costs ("Phase II");

4 WHEREAS, only the enforcement costs portion of Plaintiffs United States of America
5 and California Department of Toxic Substances Control ("Plaintiffs") response costs remains
6 unresolved;

7 WHEREAS, Plaintiffs' filed separate Motions for Enforcement Costs on February 21,
8 2017 (ECF Nos. 304 and 305), and Sterling filed its Opposition to those motions on April 21,
9 2017 (ECF No. 307);

10 WHEREAS, by stipulation and order of this Court, the deadline for Plaintiffs' to file a
11 Reply to Sterling's Opposition is currently set for July 17, 2017, and the hearing on Plaintiffs'
12 Motions for Enforcement Costs is currently set for July 27, 2017 (ECF No. 314);

13 WHEREAS, Plaintiffs served their Requests for Production (Phase II – Enforcement
14 Costs) and Interrogatories (Phase II – Enforcement Costs) on cost-related matters on May 3,
15 2017, and Sterling served its Responses on June 2, 2017;

16 WHEREAS, Plaintiffs have reviewed Sterling's Responses and intend to file a Motion to
17 Compel with regard to certain of the Responses, and whereas the Parties met and conferred on
18 June 5, 2017 pursuant to Local Rule 251 but were unable to resolve their disagreement as to the
19 intended Motion to Compel;

20 WHEREAS, Plaintiffs intend to proceed with their Motion to Compel, and the Parties are
21 currently drafting a Joint Statement re Discovery Dispute pursuant to Local Rule 251, which they
22 intend to complete in time for Plaintiffs to timely file their Motion to Compel for a hearing by
23 Magistrate Barnes on July 14, 2017, or as soon thereafter as she may be available to hear the
24 matter; and

25 WHEREAS, judicial economy and the interests of the Parties will be best served if
26 Plaintiffs' Reply briefing is due and the hearing on Plaintiffs' Motions for Enforcement Costs is
27 held after the Motion to Compel is resolved;

1 IT IS HEREBY STIPULATED BY AND BETWEEN PLAINTIFFS AND STERLING,
2 BY AND THROUGH THEIR UNDERSIGNED COUNSEL, THAT:

3 Plaintiffs separate or joint reply briefs in support of their respective Motions for
4 Enforcement Costs shall be due on the later of: a) July 17, 2017; b) 10 days after the Court has
5 ruled on the Motion to Compel (if the Motion to Compel is denied); or c) 10 days after Sterling
6 has supplemented its discovery responses and/or produced all additional documents as directed
7 by the Court (if the Motion to Compel is granted in whole or in part); and

8 The hearing on Plaintiffs' Motions for Enforcement Costs shall be continued to August
9 31, 2017. The Parties shall petition the Court to further continue this hearing if it appears likely
10 that Plaintiffs' reply brief(s) in support of their respective Motions for Enforcement Costs would
11 be due less than seven days before the scheduled hearing date.

12
13 Respectfully submitted,

14 FOR THE UNITED STATES OF AMERICA:

15 /s/ Davis H. Forsythe

16 DAVIS H. FORSYTHE

17 Trial Attorney

18 Environmental Enforcement Section

19 Environment and Natural Resources Division

20 U.S. Department of Justice

21 Attorney for Plaintiff United States of America

22 FOR THE CALIFORNIA DEPARTMENT OF
23 TOXIC SUBSTANCES CONTROL:

24 /s/ John W. Everett

25 JOHN W. EVERETT

26 Deputy Attorney General

27 Attorney for Plaintiff

28 California Department of Toxic Substances Control

1 FOR STERLING CENTRECORP, INC.:

2 /s/ Kaitlyn D. Shannon

3 GARY J. SMITH

4 KAITLYN D. SHANNON

5 BEVERIDGE & DIAMOND, P.C.

6 Attorneys for Defendant

7 Sterling Centrecorp, Inc.¹

8 **ORDER**

9 In accordance with the foregoing stipulation, and good cause appearing, the deadline for
10 the Plaintiffs' separate or joint reply briefs in support of their respective Motions for
11 Enforcement Costs shall be due on the later of: a) July 17, 2017; b) 10 days after the Court has
12 ruled on the Motion to Compel (if the Motion to Compel is denied); or c) 10 days after Sterling
13 has supplemented its discovery responses and/or produced all additional documents as directed
14 by the Court (if the Motion to Compel is granted in whole or in part. In addition, because the
15 August 31, 2017 hearing date requested in the stipulation is unavailable on the Court's calendar,
16 after conferring with counsel the date for the hearing on the Motions for Enforcement Costs shall
17 be September 29, 2017 at 2:00 p.m. in Courtroom No. 7.
18
19

20 IT IS SO ORDERED.

21 Dated: June 23, 2017

22 
23 _____
24 MORRISON C. ENGLAND, JR.
25 UNITED STATES DISTRICT JUDGE

26 _____
27 ¹ Counsel for Defendant Sterling Centrecorp, Inc. has authorized counsel for the United States to
28 electronically sign and file this Joint Stipulation on its behalf. Counsel for the United States will
retain documents evidencing this authorization.