

1 JOANNA R. MENDOZA, State Bar No. 148320
 LAW OFFICES OF JOANNA R. MENDOZA, P.C.
 2 P.O. Box 2593
 Granite Bay, CA 95746
 3 (916) 781-7600
 (916) 781-7601 FAX
 4 jmendoza@theiplawfirm.com

5 JOEL C. BAIOCCHI, State Bar No. 107095
 LAW OFFICE OF JOEL C. BAIOCCHI
 6 P.O. Box 67
 Dutch Flat, CA 95714
 7 (530) 389-9175
 (530) 389-9176
 8 jcblaw2@att.net

9 Attorneys for Plaintiffs and Counterdefendants
 Dale M. Wallis, James L. Wallis,
 10 Hygieia Biological Laboratories

11

12

13

IN THE UNITED STATES DISTRICT COURT

14

FOR THE EASTERN DISTRICT OF CALIFORNIA - SACRAMENTO

15

16

17 DALE M. WALLIS, D.V.M., JAMES L.
 WALLIS, and HYGIEIA BIOLOGICAL
 LABORATORIES, INC. a California
 18 Corporation,

CASE NO.: 2:08-CV-02558-WBS-AC

*Assigned to: Honorable William B. Shubb,
Courtroom 5, 14th Floor*

19

Plaintiffs,

*Magistrate Judge Allison Claire, Courtroom 26,
8th Floor*

20

v.

21

22 CENTENNIAL INSURANCE COMPANY,
 INC., a New York corporation; ATLANTIC
 MUTUAL INSURANCE CO., INC., a New
 York corporation,

**STIPULATION TO WITHDRAW (1)
 MOTION TO VACATE AND QUASH
 ORDERS OF EXAMINATION AND (2)
 EXAMINATION OF JUDGMENT
 DEBTORS PENDING RULING ON
 PLAINTIFFS' MOTION TO POST
 SUPERSEDEAS BOND**

23

Defendants.

24

25

26 ///

27

28

1 **THE PARTIES HERETO**, by and through their respective counsel, stipulate as follows:

2 WHEREAS on November 17, 2015, Defendants submitted an Ex Parte Application seeking
3 Amended Order for Examination of Judgment Debtors Dale Wallis, James Wallis and Person Most
4 Knowledgeable of Judgment Debtor Hygieia Biological Laboratories, Inc. (Docket no. 321).

5 WHEREAS on November 23, 2015, the Court issued Amended Orders for Examination of
6 Judgment Debtors scheduling their appearance for December 9, 2015 (Docket no.s 322 - 324).

7 WHERAS Pursuant to California Code of Civil Procedure §708.110(d) personal service of the
8 order on the judgment debtor must occur not less than 10 days prior to the date specified for the
9 examination.

10 WHEREAS Personal service was not able to be made on the judgment debtors 10 days prior
11 to the December 9, 2015 date specified for examination.

12 WHEREAS the parties agreed to a set the date for examination of the judgment debtors on
13 January 20, 2016, a date agreeable to all parties.

14 WHEREAS, judgment debtors intended to schedule a motion to vacate the orders of
15 examination and to quash service of the orders of examination for the same hearing date.

16 WHEREAS, on December 14, 2015, the parties submitted a Stipulation and proposed order
17 agreeing that the examination of judgment debtors would proceed on January 20, 2016, if their
18 motion to vacate and quash was not granted, and therefore requested the Amended Order for
19 Examination of Judgment Debtors be scheduled for January 20, 2016. The Stipulation further
20 provided the judgment debtors reserved the right to file a motion to post a supersedeas bond so as to
21 preclude any examination and/or other enforcement of the judgment (Docket no. 325).

22 WHEREAS the judgment debtors filed their motion to vacate and quash the orders of
23 examination on December 14, 2016 (Docket no. 326).

24 WHEREAS on December 18, 2015, the judgment debtors also filed a motion to post a
25 supersedeas bond and stay enforcement of judgment, set for hearing on January 20, 2016 (Docket no.
26 327).

27 WHEREAS the Court, pursuant to the Stipulation of the parties, on December 21, 2015,

1 issued amended orders of examination of the judgment debtors (Docket no.s 328 – 330, as corrected,
2 Docket no. 331).

3 WHEREAS, defendants and judgment creditors do not intend to oppose the motion of
4 judgment debtors to post a supersedeas bond and to stay execution of the judgment.

5 WHEREAS, the parties agree that the motion of the judgment debtors to post a supersedeas
6 bond and to stay enforcement of judgment, if granted, renders the orders of examination, and the
7 judgment debtor’s motion to vacate and quash the orders of examination moot.

8 **THEREFORE, the parties hereby stipulate, by and through their respective counsel,**
9 **that:**

- 10 1. Judgment debtors withdraw their motion to vacate and quash the orders of examination of
11 the judgment debtors.
- 12 2. The order of examination of the judgment debtors shall be vacated and any lien created by
13 reason of the order is terminated.
- 14 3. Judgment creditors will file a notice of non-opposition to judgment debtors’ motion to
15 post a supersedeas bond and stay enforcement of judgment.
- 16 4. In the event the Court denies the motion of plaintiffs and judgment debtors to post a
17 supersedeas bond and stay enforcement of judgment, the parties agree to enter into a
18 further stipulation to re-issue and re-schedule the orders of examination, and to set a
19 hearing date on plaintiffs’ motion to vacate and quash said orders of examination,
20 consistent with their prior Stipulation.
- 21 5. Judgment debtors may not withdraw the supersedeas bond unless the Ninth Circuit
22 reverses the judgment, or unless judgment debtors provide notice to judgment creditors
23 and obtain court approval.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: December 31, 2015

Law Office of Joel C. Baiocchi

By: /s/ _____
Attorney for Plaintiff
Dale M. Wallis, D.V.M., James Luard Wallis,
And Hygieia Biological Laboratories, Inc.

Dated: December 31, 2015

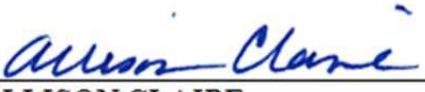
SELVIN WRAITH HALMAN LLP

By: /s/ _____
Gary R. Selvin
Robin D. Korte
Attorneys for Defendants
Centennial Insurance Co. and Atlantic Mutual
Insurance Co. Inc.

1 **IT IS SO ORDERED:**

- 2 1. The request of judgment debtors' to withdraw their motion to vacate and quash the orders
3 of examination of the judgment debtors is granted.
- 4 2. The order of examination of the plaintiffs and judgment debtors shall be vacated and any
5 lien created by reason of the order is terminated.
- 6 3. This order is made without prejudice, in the event the motion of plaintiffs and judgment
7 debtors to post a supersedeas bond is denied, to new orders of examination, and related
8 motions, consistent with this Stipulation and the parties' prior Stipulation.

9
10 Dated: January 15, 2016

11 
12 ALLISON CLAIRE
13 UNITED STATES MAGISTRATE JUDGE