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9 Attorneys for Defendant and Counterclaimant,
 10 SPECTRA PREMIUM INDUSTRIES INC.,
 11 erroneously sued as Spectra/Premium Industries,
 12 Inc., and SPECTRA PREMIUM (USA) CORP.

13 UNITED STATES DISTRICT COURT
 14 EASTERN DISTRICT OF CALIFORNIA

15 RADIATOR EXPRESS WAREHOUSE,
 16 Plaintiff/Counter-Defendant,
 17 vs.
 18 SPECTRA/PREMIUM INDUSTRIES,
 19 INC.,
 20 Defendant/Counterclaimant.

Case No. 2:08-CV-02417-MCE-EFB
 2:08-CV-03127-MCE-EFB

**JOINT STIPULATION AND ORDER (1)
 RESCHEDULING HEARING ON
 SPECTRA PREMIUM INDUSTRIES INC.
 AND SPECTRA PREMIUM (USA)
 CORP.'S APPLICATION FOR RIGHT TO
 ATTACH ORDER AND (2) TAKING OFF-
 CALENDAR RADIATOR EXPRESS
 WAREHOUSE'S MOTION TO DISMISS
 SPECTRA PREMIUM (USA) CORP.'S
 COMPLAINT**

21 SPECTRA PREMIUM (USA) CORP.,
 22 Plaintiff,
 23 vs.
 24 RADIATOR EXPRESS WAREHOUSE,
 25 Defendant.

Action Filed: Oct. 14, 2008
 Trial Date: None Set
 Judge: Hon. Morrison C. England, Jr.

Hearing Date: February 6, 2009
 Time: 9:00 a.m.
 Courtroom: 7

1 WHEREAS, Radiator Express Warehouse (“REW”) filed its Complaint against Spectra
2 Premium Industries Inc. (“Spectra”) on October 14, 2008, case number 2:08-cv-02417;

3 WHEREAS, Spectra filed an Answer and Counterclaim to REW’s Complaint on
4 December 23, 2008;

5 WHEREAS, Spectra Premium (USA) Corp. (“Spectra USA”) filed its Complaint against
6 REW on December 23, 2008, case number 2:08-cv-03127;

7 WHEREAS, Spectra and Spectra USA each filed a Notice of and Application for Right to
8 Order and for Issuance of Writ of Attachment After Hearing and for Temporary Protective Order
9 (“Applications”) against REW on December 24, 2008;

10 WHEREAS, REW filed a Motion to Dismiss Spectra USA’s Complaint on January 12,
11 2009;

12 WHEREAS, the Court ordered these cases related on January 20, 2009;

13 WHEREAS, the Court ordered Spectra to file a supplement to its Application by 12:00
14 p.m. on February 5, 2009 describing the specific property of REW to be attached;

15 WHEREAS, Spectra, Spectra USA, and REW are currently working towards an informal
16 resolution of the disputes;

17 WHEREAS, in the best interests of judicial economy and efficiency, the parties agree that
18 the hearing on the pending Applications currently scheduled for February 6, 2009 at 9:00 a.m.
19 should be continued to February 20, 2009 at 9:00 a.m. and that Spectra’s supplement to its
20 Application should be filed by February 18, 2009;

21 WHEREAS, the parties further agree that REW’s pending Motion to Dismiss scheduled
22 for hearing February 20, 2009 at 9:00 a.m. is hereby withdrawn and should be formally taken off-
23 calendar, and that REW will answer the Spectra USA Complaint on or before February 28, 2009.

24 NOW THEREFORE, IT IS HEREBY STIPULATED between the parties, through their
25 respective counsel of record, and subject to the approval of this Court, that:

26 1. Hearing on Spectra and Spectra USA’s Applications scheduled for February 6,
27 2009 at 9:00 a.m. is re-scheduled to February 20, 2009 at 9:00 a.m.

28 2. Spectra and Spectra USA’s Supplement to Application shall be filed with the

1 Court and served no later than February 18, 2009.

2 3. Hearing on REW's Motion to Dismiss Spectra USA's Complaint scheduled for
3 February 20, 2009 is formally taken off calendar.

4 4. REW's Motion to Dismiss is withdrawn and REW will file an answer to the
5 Spectra USA Complaint on or before February 28, 2009.

6 IT IS SO STIPULATED.

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9 Dated: February 4, 2009

MORGAN, LEWIS & BOCKIUS LLP

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By: /S/ Howard Holderness
Howard Holderness

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Attorneys for Defendant and Counterclaimant
SPECTRA PREMIUM INDUSTRIES INC.,
erroneously sued as Spectra/Premium Industries,
Inc., and Plaintiff SPECTRA PREMIUM (USA)
CORP.

16 Dated: February 4, 2009

ADORNO YOSS ALVARADO & SMITH, APC

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By: /S/ Theodore E. Bacon
Theodore E. Bacon


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Attorneys for Plaintiff, Counter-Defendant, and
Defendant RADIATOR EXPRESS
WAREHOUSE

23 THE FOREGOING STIPULATION IS APPROVED AND SO ORDERED.

24 DATED: February 5, 2009

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MORRISON C. ENGLAND, JR
UNITED STATES DISTRICT JUDGE

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ATTESTATION

I hereby attest that I have on file PDF copies of all holograph signatures for any signatures indicated by a “conformed” signature (/S/) within this e-filed document.

Dated: February 4, 2009

MORGAN, LEWIS & BOCKIUS LLP

By: /S/ Howard Holderness
Howard Holderness

Attorneys for Defendant and Counterclaimant
SPECTRA PREMIUM INDUSTRIES INC.,
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CORP.