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17	UNITED STATES DISTRICT COURT		
18	FOR THE EASTERN DISTRICT OF CALIFORNIA		
19	PATRIOT RAIL CORP., a Delaware	CASE NO. 2:09-cv-00009-MCE-EFB	
20	corporation,	STIPULATION AND ORDER	
21	Plaintiff,	AMENDING PRETRIAL SCHEDULING	
22	v.	ORDER TO EXTEND EXPERT DISCOVERY AND DISPOSITIVE MOTION DATES	
23	SIERRA RAILROAD COMPANY, a California corporation,	WOTIONDATES	
24	Defendant.		
25	Detendant.		
26	And Related Counterclaim.		
27			
28			
	SAC 441,758,961 v4 085310.011800	Case No. 2:09-cv-00009-MCE-EFB	
- 1		Cube 110. 2.07-CV-00007-IVICE-EID	

STIPULATION AND ORDER

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WHEREAS on January 4, 2010, this Court issued its minute order continuing the trial date in this matter to March 19, 2012;

WHEREAS on July 6, 2010, this Court issued its minute order rescheduling the August 2, 2010, Mandatory Settlement Conference ("MSC") in this matter for August 27, 2010;

WHEREAS pursuant to the Court's June 24, 2010, the parties are to disclose expert witnesses and expert reports on or before July 30, 2010, and thereafter disclose rebuttal experts and expert reports on or before August 19, 2010;

WHEREAS pursuant to Section V, "Disclosure Expert Witnesses" of the Court's original May 18, 2009, Pretrial Scheduling Order, the parties are "to complete all discovery of expert witnesses in a timely manner in order to comply with the Court's deadline for filing dispositive motions." (See Pretrial Scheduling Order, filed on May 18, 2009, p.4, lns.: 8-10);

WHEREAS the Court's April 29, 2010, Order set August 26, 2010 as the last day to hear dispositive motions in this matter;

WHEREAS as a result of the Court's July 6, 2010, minute order, expert discovery and dispositive motion practice must now be completed prior to the rescheduled MSC set for August 27, 2010;

WHEREAS Plaintiff and Counter Defendant Patriot Rail Corp., Cross Defendants Patriot Rail, LLC and Larry Coe ("Patriot"), and Defendant and Counter Claimant Sierra Railroad Company ("Sierra") (collectively with Patriot, the "Parties") agree that the MSC has the best chance of success if the settlement conference is conducted prior to the completion of expert discovery and dispositive motion practice;

WHEREAS good cause exists for, and none of the parties to this matter shall be prejudiced by, an extension of the last day to disclose expert witness, rebuttal expert witness and the last day for dispositive motions to be heard;

WHEREAS the parties further agree that to ensure that efficient completion of both expert discovery and dispositive motion practice should the MSC be unsuccessful, upon the court's approval, a date certain as to the earliest date of when a dispositive motion may be heard should be set along with the last day such a motion may be heard;

WHEREAS the Parties also agree to extend the non-expert discovery cut-off for the limited purpose of allowing third parties responding to outstanding subpoenas to produce documents on or before September 10, 2010; and,

WHEREAS the Parties also believe the extensions contained in this Stipulation and Proposed Order will not affect or require modification of the trial date or any other dates in the Court's Pretrial Scheduling Order.

THE PARTIES, THROUGH THEIR RESPECTIVE ATTORNEYS OF RECORD, HEREBY STIPULATE pursuant to Fed. R. Civ. P. 16(b)(4) and request that the Court amend its Pretrial Scheduling Order to the following:

- Last day for third parties to respond to outstanding subpoenas served in this action shall be September 10, 2010;
- Disclosure of expert witnesses and reports shall be completed on or before September 24, 2010;
- Disclosure of rebuttal expert witnesses and reports shall be completed on or before October 14, 2010;
- The earliest day a dispositive motion may be heard shall be December 2, 2010;
- The last day to file a dispositive motion shall be November 15, 2010;
- The last day a dispositive motion may be heard shall be December 16, 2010; and,
- The parties will complete all discovery of expert witnesses in a timely manner in order to comply with the deadline for filing dispositive motions.

Dated: July 26, 2010 GREENBERG TRAURIG, LLP 2 By: /s/ M. Theresa Tolentino Meehan Lisa L. Halko 3 M. Theresa Tolentino Meehan Sarah W. Asplin 4 Attorneys for Plaintiff/Counter Defendant Patriot Rail Corp. and Cross Defendants Patriot Rail, 5 LLC and Larry Coe 6 Dated: July 26, 2010 WEINTRAUB GENSHLEA CHEDIAK 7 8 By: /s/ Louis A. Gonzalez, Jr. Louis A. Gonzalez, Jr. 9 W. Scott Cameron Attorneys for Defendant and Counter Claimant 10 Sierra Railroad Company 11 ORDER 12 13 As it appears that resetting the Mandatory Settlement Conference to August 27, 2010, 14 has modified the scheduling in this matter to require the parties to complete expert witness 15 discovery and dispositive motion practice prior to the MSC, completing such work prior to a 16 settlement conference would inhibit settlement discussions, and there are several outstanding 17 third party subpoenas, the Court finds good cause to amend its Pretrial Scheduling Order to set 18 the following deadlines: 19 Last day for third parties to respond to outstanding subpoenas served in this 20 action shall be September 10, 2010; 21 Disclosure of expert witnesses and reports shall be completed on or before 22 September 24, 2010; 23 Disclosure of rebuttal expert witnesses and reports shall be completed on or 24 before October 14, 2010; 25 The earliest day a dispositive motion may be heard shall be December 2, 2010; 26 The last day to file a dispositive motion shall be November 15, 2010; 27 The last day a dispositive motion may be heard shall be December 16, 2010; 28 and,

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The parties will complete all discovery of expert witnesses in a timely manner in order to comply with the deadline for filing dispositive motions. IT IS SO ORDERED. Dated: July 26, 2010 UNITED STATES DISTRICT JUDGE

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