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Counter-Claimant, Sierra Railroad Company

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PATRIOT RAIL CORP., a Delaware  
corporation,

Plaintiff,

v.

SIERRA RAILROAD COMPANY, a  
California corporation,

Defendant.

And Related Counterclaim.

CASE NO. 2:09-cv-00009-MCE-EFB

STIPULATION AND ORDER  
AMENDING PRETRIAL SCHEDULING  
ORDER TO EXTEND DISCOVERY CUT-  
OFF AND TO POSTPONE THE  
MANDATORY SETTLEMENT  
CONFERENCE

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WHEREAS the Pretrial Scheduling Order also set a Mandatory Settlement Conference on April 15, 2010, before the honorable Judge Morrison C. England, Jr., and each party is to submit to Judge England's Chambers a confidential settlement statement on or before April 1, 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”) voluntarily mediated this matter before the Hon. James Warren (Ret.) of JAMS on February 23, 2010 from 9:30 a.m. through 7:30 p.m., but were unable to reach a settlement agreement;

WHEREAS the Parties have noticed and subpoenaed a minimum of sixteen depositions that must be completed before discovery closes in this matter;

WHEREAS the Parties also believe that in light of the failed February 23, 2010 mediation, it is unlikely that the Parties will settle this matter without first completing the pending depositions, and therefore, agree that good cause exists to postpone the Mandatory Settlement Conference before Judge England to May 27, 2010, or on a date after the proposed

1 non-expert discovery cut-off of May 21, 2010 that is acceptable to Judge England, with the  
2 Parties submitting confidential settlement statements to Judge England's chambers on or before  
3 May 13, 2010; and,

4 WHEREAS the Parties also believe that an extension of the non-expert discovery cut-  
5 off and postponement of the Mandatory Settlement Conference will not effect or require  
6 modification of any other dates in the Court's Pretrial Scheduling Order;

7 THE PARTIES, THROUGH THEIR RESPECTIVE ATTORNEYS OF RECORD,  
8 HEREBY STIPULATE pursuant to Fed. R. Civ. P. 16(b)(4) and request that the Court amend  
9 its Pretrial Scheduling Order to extend the non-expert discovery cut-off in this matter to May  
10 21, 2010, reschedule the Mandatory Settlement Conference to May 27, 2010, or on date after  
11 the proposed non-expert discovery cut-off of May 21, 2010 that is acceptable to Judge England,  
12 and require the Parties to submit a confidential settlement statement to Judge England's  
13 chambers on or before May 13, 2010.

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15 Dated: March 31, 2010

GREENBERG TRAURIG, LLP

16  
17 By: /s/ M. Theresa Tolentino Meehan

Lisa L. Halko

M. Theresa Tolentino Meehan

18 Sarah W. Asplin

19 Attorneys for Plaintiff/Counter Defendant Patriot  
20 Rail Corp. and Cross Defendants Patriot Rail,  
LLC and Larry Coe

21 Dated: March 31, 2010

WEINTRAUB GENSHLEA CHEDIK

22  
23 By: /s/ W. Scott Cameron (as authorized on 3/31/10)

Louis A. Gonzalez, Jr.

24 W. Scott Cameron


25 Attorneys for Defendant and Counter Claimant  
26 Sierra Railroad Company  
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ORDER

As it appears the Parties failed to settle this matter at a voluntary mediation on February 23, 2010, must now complete several depositions both in California and out of state, have stipulated to an extension of the non-expert discovery cut-off, and as the Court finds good cause to amend its Pretrial Scheduling Order to extend the non-expert discovery cut-off and to postpone the Mandatory Settlement Conference currently set for April 15, 2010,

IT IS SO ORDERED that the Pretrial Scheduling Order shall be amended to extend the non-expert discovery cut-off to May 21, 2010, and reschedule the Mandatory Settlement Conference before Judge England to June 4, 2010 at 9:00a.m., with the Parties to submit a confidential settlement statement to Judge England's chambers on or before May 21, 2010.

DATED: April 2, 2010

  
MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE