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5 Attorneys for Plaintiff and Appellant,  
Michael F. Burkart, Chapter 7 Trustee  
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8 UNITED STATES BANKRUPTCY COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10 SACRAMENTO DIVISION

11 In re:  
12 RICHARD J. SHIELDS,  
13 Debtor.

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16 THE BANKRUPTCY ESTATE OF  
17 RICHARD J. SHIELDS, by and through  
MICHAEL F. BURKART, Chapter 7  
Trustee,  
18 Plaintiff,  
19

20 vs.  
21 NEIL MCLEAN (aka NEAL MCLEAN)  
and RUSSELL LONGAWAY,  
22 Defendants.  
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District Court Case No. 09-CV-02910-  
GEB

Case No. 06-22377-C-7  
Chapter 7

Adv. Proc. No. 08-02352-C

**STIPULATION AND ORDER ON  
APPELLEE'S MOTION TO STRIKE  
ITEMS DESIGNATED BY  
APPELLANT FROM RECORD ON  
APPEAL**

Date: January 25, 2010

Time: 9:00 AM

Place: Courtroom 10

501 I Street, 13th Floor

Sacramento, CA 95814

Judge: Hon. Garland E. Burrell, Jr.

1           WHEREAS, on December 17, 2009, Defendant and Appellee Neil McLean  
2 (“McLean”) filed a Motion to Strike Items Designated by Plaintiff and Appellant,  
3 Michael F. Burkart, Chapter 7 Trustee of the Bankruptcy Estate of Debtor Richard  
4 J. Shields (“Trustee”) from Record on Appeal (“Motion”).

5           AND WHEREAS, Trustee and McLean have consented to resolve this  
6 Motion by agreement without substantial further action by this Court.

7           The Trustee and McLean, acting through undersigned counsel of record  
8 hereby stipulate to the following:

9           1.     The Trustee and McLean agree to strike certain items designated by  
10 Trustee from the record on appeal, as follows:

- 11                   a.   “Pleadings re Motion for Sanctions Pursuant to BR 9011” (Items  
12                           3A-Y).
- 13                   b.   “Pleadings re Motion for Judgment on the Pleadings” (Items 5A-  
14                           Q).
- 15                   c.   “Transcript of Proceedings On Motion for Judgment on  
16                           Pleadings” (Item 7).
- 17                   d.   “Notice Regarding Introduction of Deposition Testimony of  
18                           Witness Kenneth J. Herold” (Item 12).
- 19                   e.   “Deposition of Neil McLean” (Item 27).
- 20                   f.   “Deposition of Russell Longaway” (Item 28).

21           2.     The Trustee and McLean further agree that Trustee shall reserve,  
22 without prejudice, any right to modify, restate, or supplement the record on appeal,  
23 including but not limited to the stricken items described above, as permitted by  
24 Federal Rule of Appellate Procedure 10(e) and applicable Bankruptcy Code and  
25 Rules.

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1           3.       Based on the foregoing, the hearing on the Motion, currently  
2 scheduled for January 25, 2010 at 9:00 AM, shall be taken off calendar as no  
3 hearing is necessary.

4 DATED: January 12, 2010

MGRANE GREENFIELD LLP

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6 By: /s/ Christopher D. Sullivan  
7 Christopher D. Sullivan  
8 Attorneys for Plaintiff and Appellant,  
9 Michael F. Burkart, Chapter 7 Trustee

MACDONALD & ASSOCIATES

10 By: /s/ Reno F.R. Fernandez III  
11 Reno F.R. Fernandez III  
12 Attorneys for Defendant and Appellee,  
13 Neil McLean

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1 **ORDER**

2 PURSUANT TO STIPULATION, IT IS ORDERED AS FOLLOWS:

3 1. The hearing on Defendant and Appellee’s Motion to Strike Items  
4 Designated by Appellant from Record on Appeal, currently scheduled for January  
5 25, 2010 at 9:00 AM, shall be vacated.

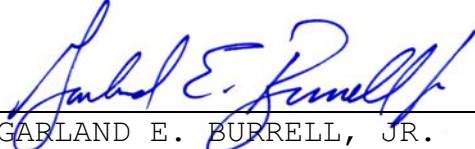
6 2. The following items shall be stricken from the record on appeal, as  
7 follows:

- 8 a. “Pleadings re Motion for Sanctions Pursuant to BR 9011” (Items  
9 3A-Y).  
10 b. “Pleadings re Motion for Judgment on the Pleadings” (Items 5A-Q).  
11 c. “Transcript of Proceedings On Motion for Judgment on Pleadings”  
12 (Item 7).  
13 d. “Notice Regarding Introduction of Deposition Testimony of Witness  
14 Kenneth J. Herold” (Item 12).  
15 e. “Deposition of Neil McLean” (Item 27).  
16 f. “Deposition of Russell Longaway” (Item 28).

17 3. The Trustee reserves, without prejudice, any right to modify, restate,  
18 or supplement the record on appeal, including but not limited to the stricken items  
19 described above, as permitted by Federal Rule of Appellate Procedure 10(e) and  
20 applicable Bankruptcy Code and Rules.

21 **IT IS SO ORDERED.**

22 DATED: January 21, 2010

  
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GARLAND E. BURRELL, JR.  
United States District Judge