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Dana Companies, LLC
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9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA
11 SACRAMENTO DIVISION
12

13 STONINGTON INSURANCE COMPANY,

14 Plaintiff,

15 v.

16 DANA COMPANIES LLC; and
17 DOES 1 through 50, inclusive,

18 Defendants.
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CASE NO. 2:10-CV-01372 KJM-EFB

STIPULATION IN SUPPORT OF THE
APPLICATION FOR AN ORDER
SHORTENING TIME ON DEFENDANT'S
MOTION TO COMPEL

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10 WHEREAS the discovery cut off in the above entitled matter is currently scheduled for
11 April 1, 2011.

15 WHEREAS on February 28, 2011 Defendant served a deposition subpoena for the
16 production of documents on Plaintiff's insured, Rinehart Oil, Inc., with a production date of
17 March 11, 2011.

WHEREAS Defendant believes the documents responsive to the deposition subpoena served on Rinehart Oil and its employees, which were not previously produced with Plaintiff's initial disclosures, are necessary for the effective and thorough deposition of Rinehart Oil's PMK and its two employees, Mr. Thomas and Mr. Moody, and are relevant to Defendant's defense of this action.

2 Case No. 2:10-cv-01372 KJM-EFB

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DEFENDANT’S MOTION TO COMPEL

SAC 441,940,510 v3 127352.010100

1 documents or documents that would violate the right of privacy of any third parties. Plaintiff
2 also asserts that many of the requests are onerous, overburdensome and oppressive that the cost
3 involved would be extraordinarily taxing on Rinehart Oil. According to Plaintiff, Rinehart Oil
4 has already produced all documents within its possession, custody, and control responsive to
5 the balance of the requests, and/or the requested documents, although may have existed at some
6 point, had been destroyed pursuant to regulations.

7 WHEREAS on or about March 4, 2011, Defendant served a separate notice of
8 deposition of Plaintiff Stonington Insurance Company's PMK to take place on March 23, 2011
9 in Sacramento, California.

10 WHEREAS Plaintiff objects to producing its PMK in California for the March 23,
11 2011, deposition as no witness was available on that date and time, and asserts that the
12 deposition should take place in Arkansas at its primary place of business given the number of
13 potential PMK witnesses to be produced.

14 WHEREAS, at the request of Plaintiff's counsel appearing for Rinehart Oil, on March
15 14, 2011 Defendant re-noticed the depositions of Mr. Moody, Mr. Thomas, and Rinehart Oil's
16 PMK for March 21, 22, and 23, 2011.

17 WHEREAS on March 15, 2011, Defendant served deposition subpoenas and noticed
18 the depositions of the insured's other employees, whom were drivers of the Subject Vehicle
19 that was involved in the accident that is the subject of this subrogation action, J.R. McCutchin,
20 Fred Martinez, Bruce Johnson, Joe Marin, Johnny Marin, Pat Withrow, Ray Vanderpool, and
21 Tom Applebee. The subpoenas are for March 29, 2011 through March 31, 2011.

22 WHEREAS the parties are attempting to resolve through the meet and confer process
23 the above discovery disputes regarding the production of documents responsive to the
24 document requests attached to the deposition subpoenas for Mr. Moody, Mr. Thomas, and
25 Rinehart Oil, Inc., which counsel for Defendant believes are necessary for the defense of this
26 action and for the effective deposition of each, as well as the production of Plaintiff's PMK for
27 deposition in Sacramento, California.

1 WHEREAS the parties submitted a stipulation to the Court on or about March 21, 2011
2 to extend the discovery cut-off to complete the non-expert discovery to May 6, 2011, for the
3 limited purpose of completing the depositions listed above, which were noticed and
4 subpoenaed prior to the original discovery cut-off, as well as to provide additional time to
5 resolve the discovery dispute regarding the production of documents from Plaintiff's insured
6 Rinehart and its employees in response to the subpoenas served by Defendant.

7 WHEREAS good cause exists for, and none of the parties to this matter shall be
8 prejudiced by, shortening the time to notice a Motion to Compel (1) the production of the
9 documents responsive to the deposition subpoenas described above and (2) the appearance of
10 Plaintiff's PMK for deposition in Sacramento, California.

11 WHEREAS the Parties stipulate and agree to waive full notice for a hearing on the
12 Motion to Compel described above to take place on Wednesday, March 30, 2011.

13 WHEREAS Defendant stipulates and agrees to provide Plaintiff with its portions of the
14 Joint Statement regarding the discovery dispute no later than March 22, 2011.

15 WHEREAS Plaintiff stipulates and agrees to provide Defendant with its portions of the
16 Joint Statement regarding the discovery dispute no later than March 29, 2011.

17 WHEREAS the parties stipulate and agree to file with the court their Joint Statement in
18 support of the discovery dispute on March 30, 2011 by 12:00 p.m.

19 WHEREAS, the parties agree to reset the depositions Mr. Moody, Mr. Thomas, and
20 Rinehart Oil's PMK, Stonington's PMK, and up to six of the other drivers for a date after the
21 parties have reached a resolution, or the court issues its order on the document production
22 disputes and PMK dispute, but prior to the May 6, 2011 cut-off.

23 THE PARTIES, THROUGH THEIR RESPECTIVE ATTORNEYS OF RECORD,
24 HEREBY STIPULATE to the application for an order shortening time on the hearing for the
25 motion to compel and request that the Court grant the application for the order shortening time.
26 Additionally, the parties stipulate the following schedule for the motion to compel:

27 The hearing on the Motion to Compel described above will place on Wednesday, April
28 1, 2011 at 10:00 a.m.

1 Defendant will provide Plaintiff with Defendant's portions of the Joint Statement
2 regarding the discovery dispute no later than March 22, 2011.

3 Plaintiff will provide Defendant with Plaintiff's portions of the Joint Statement
4 regarding the discovery dispute no later than March 29, 2011.

5 The parties will file with the court their Joint Statement in support of the discovery
6 dispute on March 30, 2011.

7
8 Dated: March 21, 2011

CHOLAKIAN & ASSOCIATES

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11 By: /s/ Jennifer Kung
12 Jennifer Kung
13 Kevin Cholakian
14 Attorneys for Plaintiff
15 Stonington Insurance Company

16
17 Dated: March 21, 2011

GREENBERG TRAURIG, LLP

18 By: /s/ Angela L. Diesch
19 Kevin T. Collins
20 M. Theresa Tolentino Meehan
21 Angela L. Diesch
22 Attorneys for Defendant
23 Dana Companies, LLC

24 ORDER

25 In light of the parties' March 21, 2011 stipulation in support of the application for an
26 order shortening time on defendant's motion to compel, Dckt. No. 28, as well as the March 21,
27 2011 stipulation seeking to continue the discovery completion deadline from April 1, 2011 to
28 May 6, 2011, Dckt. No. 28, IT IS HEREBY ORDERED that:

1. The stipulation for shortening time on defendant's motion to compel, Dckt. No. 29,
is approved in part.

2. Defendant's motion to compel is *tentatively* set for hearing on Friday, April 1, 2011, at 10:00 a.m. in Courtroom No. 24.¹

3. The parties are directed to meet and confer *in good faith* in an attempt to resolve and/or narrow the disputes between them. If the parties are unable to resolve their disputes, Defendant shall file a joint statement regarding the discovery disagreement no later than 12:00 p.m. (noon) on Wednesday, March 30, 2011.² Each party's portion of the joint statement shall be no longer than 15 pages, for a total of 30 pages.³

4. If, upon review of the joint statement, it appears that the parties have not adequately met and conferred, the April 1, 2011 hearing may be continued or vacated and/or sanctions may be imposed. *See* Local Rule 251(d).

SO ORDERED.

Dated: March 21, 2011


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE

¹ Although the parties stipulate to the hearing being held on *Wednesday*, April 1, 2011, the actual hearing date will be *Friday*, April 1, 2011. It is assumed that the parties intended for the hearing to be held on that date since they stipulated to filing their joint statement on *Wednesday*, March 30, 2011. Additionally, this tentative hearing date is contingent upon the district judge approving the parties' stipulation to amend the scheduling order. If that stipulation has not been approved by Wednesday, March 30, 2011, the April 1 hearing will be vacated.

² As provided in the stipulation, defendant shall provide its portion of the joint statement to plaintiff on or before March 22, 2011, and plaintiff shall provide its portion of the joint statement to defendant on or before March 29, 2011.

³ In addition to filing the joint statement electronically in .pdf format, defendant shall also submit the joint statement by email in Word or Word Perfect format to efborders@caed.uscourts.gov by March 30, 2011 at 12:00 p.m. (noon). The email subject line must contain the words "Joint Statement," as well as the case number.