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EAST WEST RESORT DEVELOPMENT V.,
L.P., NORTHSTAR BIG HORN, LLC,
NORTHSTAR IRON HORSE, LLC, AND
OLD GREENWOOD, LLC

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EAST WEST RESORT DEVELOPMENT
V., L.P, a Delaware limited partnership;
NORTHSTAR BIG HORN, LLC, a
Delaware limited liability company; and
NORTHSTAR IRON HORSE, LLC, a
Delaware limited liability company; and
OLD GREENWOOD, LLC, a Delaware
limited liability company;

Plaintiffs,

v.

ACE AMERICAN INSURANCE
COMPANY, a Pennsylvania corporation;
and DOES 1 through 10, inclusive;

Defendants.

CASE NO. 2:10-CV-01394-JAM-DAD

**STIPULATION AND ORDER
EXTENDING PRETRIAL SCHEDULING
AND TRIAL DATES**

JUDGE: Hon. John A. Mendez
MAGISTRATE JUDGE: Hon. Dale A. Drozd

1 TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD: Through
2 this stipulation and proposed order, defendant ACE AMERICAN INSURANCE COMPANY
3 (“Defendant” or “ACE”) and plaintiffs EAST WEST RESORT DEVELOPMENT V., L.P. (“East
4 West”), NORTHSTAR BIG HORN, LLC (“NBH”), NORTHSTAR IRON HORSE, LLC
5 (“NIH”), and OLD GREENWOOD, LLC (“Old Greenwood”) (together “Plaintiffs”), collectively
6 referred to herein as the “Parties,” stipulate, pursuant to Civil Local Rules 143 and 144, and
7 request that the Court enter an Order to extend the pretrial and trial dates as follows, and for the
8 reasons described below:

9 **STIPULATION**

10 WHEREAS, on August 6, 2010, the Court entered its Status (Pre-trial Scheduling) Order
11 (Docket 11, docketed Aug. 9, 2010), setting forth pretrial and trial dates for this action.

12 WHEREAS, on May 5, 2011, in light of a pending motion to compel, the Court issued an
13 Order (Docket 30, docketed May 6, 2011), that extended by 30 days the deadline for making
14 expert witness disclosures under Fed. R. Civ. P. 26(a)(2) and the deadline for making
15 supplemental disclosures and disclosures of any rebuttal witnesses under Fed. R. Civ. P.
16 26(a)(2)(C).

17 WHEREAS, pursuant to the Court’s August 6, 2010, and May 5, 2011 Orders, the
18 current pretrial and trial schedule is as follows:

- 19 1. The Parties shall make expert witness disclosures under Fed. R. Civ. P. 26(a)(2)
20 by June 13, 2011, and supplemental disclosures and disclosures of any rebuttal witnesses under
21 Fed. R. Civ. P. 26(a)(2)(C) by June 20, 2011;
 - 22 2. All discovery shall be completed by July 6, 2011;
 - 23 3. All dispositive motions shall be filed by August 24, 2011;
 - 24 4. Hearing on such motions shall be on September 21, 2011 at 9:30 a.m. in
25 Courtroom # 6;
 - 26 5. The final pre-trial conference is set for October 26, 2011 at 3:00 p.m.; and
 - 27 6. Jury trial in this matter is set for December 5, 2011 at 9:00 a.m.
- 28

1 WHEREAS, the Parties wish to explore mediation before and after the close of discovery,
2 but require a significant extension of time to complete the required discovery, for the reasons
3 stated below, and cannot mediate or conduct a trial of this action until the bankruptcy and issues
4 impacting the ultimate ownership of Plaintiffs' claims against ACE are resolved.

5 WHEREAS, on October 14, 2010, ACE served its first set of interrogatories and first set
6 of requests for production of documents on Plaintiffs East West, NBH, NIH, and Old
7 Greenwood, to obtain basic information related to the claims asserted against ACE in this action.

8 WHEREAS, on December 21, 2010, Plaintiffs served their written responses to ACE's
9 first set of interrogatories and first set of requests for production of documents.

10 WHEREAS, Plaintiffs produced documents in response to ACE's first set of requests on
11 February 11, 2011, when Plaintiffs provided a CD containing approximately 1,000 pages of
12 documents.

13 WHEREAS, on April 11, 2011, ACE received a supplemental production of documents
14 from Plaintiffs in response to ACE's first set of requests for production of documents.

15 WHEREAS, on April 14, 2011, Plaintiffs NIH, NBH, and Old Greenwood served
16 "supplemental" responses to certain interrogatories, which ACE contends failed to remedy the
17 key deficiencies in Plaintiffs' interrogatory responses.

18 WHEREAS, ACE filed a motion to compel further responses to its first set of
19 interrogatories and its first set of requests for production of documents that was first heard on
20 April 22, 2011 and then continued to May 20, 2011.

21 WHEREAS, further discovery was provided by Plaintiffs on May 27, 2011 and June 3,
22 2011.

23 WHEREAS, Plaintiffs' supplemental interrogatory responses, served on June 3, 2011,
24 identify a large number of claimants or beneficiaries of payments for which Plaintiffs seek
25 reimbursement from ACE in this action, and the identification of such claimants/beneficiaries has
26 significantly increased the scope of potential third party discovery.

27 WHEREAS, ACE will also need to depose numerous parties, including each of the
28 Plaintiffs, the general contractor, the retained water intrusion consultant, and potentially several

1 other third parties in order to defend itself against Plaintiffs' claims in this action.

2 WHEREAS, on June 3, 2011, plaintiffs NIH, NBH, and Old Greenwood served their first
3 set of requests for production of documents upon ACE, containing 38 separate requests.

4 WHEREAS, the Parties will need additional time in order to explore mediation of this
5 action, to complete necessary discovery, file any dispositive motions, and adequately prepare for
6 trial under the current case schedule.

7 WHEREAS, in light of the foregoing, the Parties will not be in a position to make their
8 respective expert disclosures until additional discovery is completed.

9 WHEREAS, in order to explore the potential for an out-of-court resolution, the Parties
10 would also like to amend the case schedule to enable the Parties to engage in mediation, one day
11 of which would follow the close of discovery and take place before the filing of any dispositive
12 motions.

13 WHEREAS, in light of the foregoing, the Parties seek to extend the deadlines for expert
14 disclosures and the discovery cut-off by approximately 90 days, to carve out a period after the
15 close of discovery and before the filing of any dispositive motions to allow for a mediation to take
16 place, and for any such dispositive motions to be filed in November 2011, with the hearing, final
17 pretrial conference, and trial dates adjusted to follow accordingly.

18 NOW, THEREFORE, pursuant to Local Rules 143 and 144, the Parties jointly request
19 and HEREBY STIPULATE that pretrial and trial dates for this action be extended as follows:

20 1. The Parties shall make expert witness disclosures under Fed. R. Civ. P. 26(a)(2) by
21 **September 13, 2011**, and supplemental disclosures and disclosures of any rebuttal witnesses
22 under Fed. R. Civ. P. 26(a)(2)(C) by **September 20, 2011**;

23 2. The Parties shall complete one day of mediation by **August 31, 2011**;

24 3. All discovery shall be completed by **October 3, 2011**;

25 4. A second day of mediation of this matter, to be held after the close of discovery
26 and before the filing of any dispositive motions, shall take place no later than **November 15,**
27 **2011**;

28 5. All dispositive motions shall be filed by **November 16, 2011**;

1 6. Hearing on such motions shall be on **January 11, 2012**, at 9:30 a.m. in Courtroom
2 # 6;

3 7. The final pre-trial conference is set for **February 17, 2012**, at 10:00 a.m.; and

4 8. Jury trial in this matter is set for **March 26, 2012** at 9:00 a.m.

5 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:**

6 DATED: June 9, 2011 SEDGWICK LLP

7
8 By: s/ Andrew J. King
9 Dennis G. Rolstad
10 Andrew J. King
11 Attorneys for Defendant
12 ACE AMERICAN INSURANCE COMPANY

11 DATED: June 9, 2011 SPROUL TROST, LLP

12
13 By: s/ Thomas G. Trost
14 Thomas G. Trost
15 Attorneys for Plaintiffs
16 EAST WEST RESORT DEVELOPMENT V., L.P.,
17 NORTHSTAR BIG HORN, LLC, NORTHSTAR IRON
18 HORSE, LLC, AND OLD GREENWOOD, LLC

16 **ORDER ON STIPULATION**

17 Pursuant to the stipulation of the Parties, and good cause appearing therefor,

18 **IT IS SO ORDERED.**

19 Dated: June 9, 2011

20
21 /s/ John A. Mendez
22 THE HONORABLE JOHN A. MENDEZ
23 UNITED STATES DISTRICT COURT JUDGE