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 7
 8 UNITED STATES DISTRICT COURT
 9 EASTERN DISTRICT OF CALIFORNIA

10
 11 UNITED STATES OF AMERICA

12 Plaintiff,

13 v.

14 REAL PROPERTY LOCATED AT 149
 G STREET, LINCOLN, CALIFORNIA,
 15 PLACER COUNTY, APN: 008-266-
 015-000, INCLUDING ALL
 16 APPURTENANCES AND
 IMPROVEMENTS THERETO;

17 REAL PROPERTY LOCATED AT 167
 G STREET, LINCOLN, CALIFORNIA,
 18 PLACER COUNTY, APN: 008-266-
 016-000, INCLUDING ALL
 19 APPURTENANCES AND
 20 IMPROVEMENTS THERETO;

21 REAL PROPERTY LOCATED AT
 1199 PACIFIC HIGHWAY, UNIT 406,
 22 SAN DIEGO, CALIFORNIA, APN:
 533-471-12-27, INCLUDING ALL
 23 APPURTENANCES AND
 IMPROVEMENTS THERETO;

24 REAL PROPERTY LOCATED AT
 10940 FAIR OAKS BOULEVARD,
 25 FAIR OAKS, CALIFORNIA,
 SACRAMENTO COUNTY, APN: 244-
 26 0344-013-0000, INCLUDING ALL
 27 APPURTENANCES AND
 IMPROVEMENTS THERETO;

28 REAL PROPERTY LOCATED AT
 2143 OUTRIGGER DRIVE. EL

CASE NO. 2:12-cv-00705-MCE-DAD

**STIPULATION AND REQUEST FOR
 CONTINUANCE ON HEARINGS:**

**ON THE UNITED STATES' MOTION
 TO STAY FORFEITURE**

**ON MECHANICS BANK'S MOTION
 FOR SUMMARY JUDGMENT**

Eastern District Local Rule 230(f)]

Currently Scheduled Hearings:

Date: November 29, 2012
 Time: 2:00 p.m.

Date: December 13, 2012
 Time: 2:00 p.m.

Place: 501 "I" Street
 Courtroom 7
 Sacramento, California

Judge: Hon. Morrison C. England, Jr.

JMBM
 Jeffer Mangels
 Butler & Mitchell LLP

1 DORADO HILLS, CALIFORNIA, EL
2 DORADO COUNTY, APN: 110-612-
3 05-100, INCLUDING ALL
4 APPURTENANCES AND
5 IMPROVEMENTS THERETO;
6 REAL PROPERTY LOCATED AT
7 8928 VOLUNTEER LANE,
8 SACRAMENTO, CALIFORNIA,
9 SACRAMENTO COUNTY, APN: 078-
10 0450-026-0000, INCLUDING ALL
11 APPURTENANCES AND
12 IMPROVEMENTS THERETO;
13 REAL PROPERTY LOCATED AT 833
14 WEST SYCAMORE STREET,
15 WILLOWS, CALIFORNIA, GLENN
16 COUNTY, APN: 001-21-2-003-0,
17 INCLUDING ALL APPURTENANCES
18 AND IMPROVEMENTS THERETO;
19 REAL PROPERTY LOCATED AT
20 7447 ANTELOPE ROAD, CITRUS
21 HEIGHTS, CALIFORNIA,
22 SACRAMENTO COUNTY, APN: 204-
23 0202-014-0000, INCLUDING ALL
24 APPURTENANCES AND
25 IMPROVEMENTS THERETO;
26 REAL PROPERTY LOCATED AT
27 10293 ROCKINGHAM DRIVE,
28 RANCHO CORDOVA, CALIFORNIA,
SACRAMENTO COUNTY, APN: 077-
0050-044-0000, INCLUDING ALL
APPURTENANCES AND
IMPROVEMENTS THERETO;
REAL PROPERTY LOCATED AT 675
KULIKE ROAD, HAIKU, MAUI,
HAWAII, MAUI COUNTY, TAX MAP
KEY NO: (2) 2-8-04-072, INCLUDING
ALL APPURTENANCES AND
IMPROVEMENTS THERETO; and
REAL PROPERTY LOCATED AT 575
MENLO DRIVE, ROCKLIN,
CALIFORNIA, PLACER COUNTY,
APN: 017-283-004-000, INCLUDING
ALL APPURTENANCES AND
IMPROVEMENTS THERETO,

Defendants.

1 **TO: THE HONORABLE MORRISON C. ENGLAND, JR., UNITED STATES JUDGE FOR**
2 **THE EASTERN DISTRICT OF CALIFORNIA, AND ALL CLAIMANTS AND THEIR**
3 **COUNSEL OF RECORD:**

4 In accordance with Eastern District Local Rule 230(f), the Plaintiff, United States of
5 America (the “Government”), and Claimant, Mechanics Bank (the “Bank”) hereby respectfully
6 request that the Court continue the hearings currently set for **November 29, 2012, at 2:00 p.m.**, on
7 the Motion to Stay Forfeiture Proceedings Pursuant to 18 U.S.C. § 981(g)(1) (the “Stay Motion”)
8 filed by the Government, and Mechanics Bank’s Motion for Summary Judgment currently set for
9 hearing on **December 13, 2012. The parties to this stipulation request that both hearings be set**
10 **on January 24, 2012.** The parties request this continuance based on the following reasons:

11 The Bank opposes the Stay Motion and filed a timely opposition (the “Stay
12 Opposition”) on November 15, 2012 (docket No. 71). Many of the arguments in the Stay
13 Opposition overlap with the arguments in the Bank’s Motion for Summary Judgment (the
14 “Summary Judgment Motion”) filed in the above-entitled case on November 14, 2012 (docket No.
15 68). The Summary Judgment Motion is currently set for hearing on December 13, 2012 and it
16 would be more efficient, saving resources of both the Court and the parties, to hear the Stay Motion
17 in conjunction with the Summary Judgment Motion.

18 The Bank’s two attorneys, who have handled the case from the very beginning,
19 Robert B. Kaplan and John A. Graham, both have irreconcilable conflicts that prevent them from
20 attending the hearing on November 29, 2012.

21 Mr. Kaplan has prepaid airline tickets to fly to New York the morning of November
22 29th to visit his 88-year-old mother. Mr. Kaplan arranged and prepaid his airfare for this trip well
23 before the Government filed its Stay Motion setting the hearing for November 29th. Additionally,
24 Mr. Graham has a scheduled trial before the Honorable Charles Novack, United States Bankruptcy
25 Judge for the Northern District of California, in San Jose, California on November 29th, which
26 precludes his appearance on the currently set hearing on the Stay Motion. This trial/evidentiary
27 hearing on the confirmation of a chapter 11 reorganization plan was scheduled by Judge Novack on
28 August 30, 2012. Because the trial is on a contested chapter 11 reorganization plan, numerous

1 attorneys, parties in interest, client representatives, and witnesses are scheduled to participate in the
2 trial, and counsel is certain the trial cannot be rescheduled.

3 There will be no prejudice to parties to this stipulation or any other claimant by
4 allowing this continuance because the Stay Motion is based on 18 U.S.C. section 981(g)(1) which
5 permits a stay of civil forfeiture actions, such as this case, when discovery would interfere with a
6 related criminal investigation or prosecution. The Bank is not conducting any discovery in this case
7 and no other party has filed an opposition to the Stay Motion. In fact, Bart Volen, the claimant-
8 owner of the Defendant real properties and a criminal defendant in the related criminal proceeding,
9 filed a Statement of Non-Opposition to the Stay Motion on November 15, 2012 (docket No. 70).
10 With no pending discovery and all parties content not to conduct discovery in the near future, there
11 is no immediate threat to the related criminal proceeding that demands the Court resolve the Stay
12 Motion on the currently set hearing and no reason why the hearing cannot be continued for a mere
13 two weeks.

14 The Government has requested that the hearing be set later in January 2013 so as not
15 to interfere with certain holiday vacation plans.

16 Wherefore, the Government and the Bank request that the hearings be continued to
17 January 24, 2012.

18

19 Dated: November 19, 2012

JEFFER MANGELS BUTLER & MITCHELL LLP
ROBERT B. KAPLAN, P.C.
JOHN A. GRAHAM

21

By: /s/ John A. Graham
JOHN A. GRAHAM
Attorneys for MECHANICS BANK

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23

24 Dated: November 19, 2012

BENJAMIN B. WAGNER
United States Attorney

25

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By: /s/ Kevin C. Khasigian
KEVIN C. KHASIGIAN
Assistant U.S. Attorney

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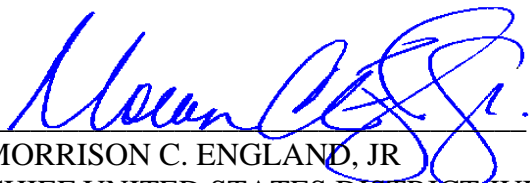
ORDER

ACCORDINGLY, IT IS HEREBY ORDERED that:

1. The hearing currently set for November 29, 2012, at 2:00 p.m., on the Motion to Stay Forfeiture Proceedings is CONTINUED to January 24, 2013; and
2. The hearing currently set for December 13, 2012, on Defendant Mechanics Bank's Motion for Summary Judgment is CONTINUED to January 24, 2013.

IT IS SO ORDERED.

Dated: November 21, 2012


MORRISON C. ENGLAND, JR.
CHIEF UNITED STATES DISTRICT JUDGE