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 PROCESS, L.P.; THERMACOR  
 PROCESS, INC.; THERMACOR, L.C.

13  
 14 **UNITED STATES DISTRICT COURT**  
 15 **EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION**

17 FRANK M. BOOTH, INC., a California  
 corporation,

18 Plaintiff,

19 v.

20 THERMACOR PROCESS, L.P., a Texas  
 21 limited partnership; THERMACOR  
 PROCESS, INC., a Texas corporation;  
 22 THERMACOR, L.C., a Texas limited  
 liability company; RICHARD B. BENDER  
 23 II, an individual; JOE KEYES, an  
 individual; and DOES 21 through 50,  
 24 inclusive,

25 Defendants.

CASE NO. 2:13-cv-01831-MCE-CKD

**STIPULATION AND ORDER FOR  
 MODIFYING PRETRIAL SCHEDULING  
 ORDER**

(Yolo County Superior Court Case No.  
 CV13-1298)

1 Plaintiff Frank M. Booth, Inc. ("Plaintiff") and defendants Thermacor Process, L.P.,  
2 Thermacor Process, Inc., Thermacor, L.C., Richard B. Bender II, and Joe Keyes  
3 ("Defendants"), through their respective undersigned counsel, hereby stipulate as follows:

4 1. On March 18, 2014, this Court entered its Pretrial Scheduling Order  
5 ("Order").

6 2. Pursuant to the Order, all non-expert discovery shall be completed by  
7 August 8, 2014, a settlement conference is scheduled for September 18, 2014, all expert  
8 witnesses are to be disclosed by October 8, 2014 and the last day to hear dispositive  
9 motions is February 5, 2015.

10 3. The parties are now engaged in meaningful settlement discussions, but  
11 need additional time to determine whether a settlement can be reached. Specifically,  
12 proposals to repair the construction project at issue are being discussed. If those  
13 discussions are successful, this entire action should be resolved. If the discussions are  
14 not successful, the parties have agreed to submit their disputes to mediation.

15 4. Moreover, in addition to the parties' settlement discussions, the outcome of  
16 a related pending lawsuit may also resolve this entire action or substantially simplify the  
17 manner in which this action will be litigated. In particular, the Regents of the University of  
18 California (i.e., the owner of the construction project that is the subject of this dispute)  
19 filed an action that is pending in Yolo County Superior Court and is titled *The Regents of*  
20 *the University of California v. McGuire And Hester, et al.*, case number CV13-383 (the  
21 "Regents Action"). Among the issues being litigated in the Regents' Action is the issue of  
22 liability for the damages that are the subject of Plaintiffs' claim for indemnity against  
23 Defendants in this instant action. The Regents' Action is set for trial on February 16,  
24 2015.

25 5. In order to allow more time for the parties to complete their settlement  
26 discussions and for the Regents Action to be adjudicated, Plaintiff and Defendants have  
27 stipulated to amend the Order as follows:

- 28 ■ The non-expert discovery deadline of **August 8, 2014** be extended to

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**March 16, 2015;**

- The settlement conference scheduled for **September 18, 2014** be continued to **March 5, 2015**;
- The expert witness disclosure deadline of **October 8, 2014** be extended to **March 16, 2015**; and
- The dispositive motion hearing deadline of **February 5, 2015** be extended to **May 15, 2015**.

6. Good cause exists for the approval of this stipulation. This is the parties' first stipulation to modify the Order. Moreover, because the events described in paragraphs 3 and 4, above, may resolve this action entirely, modifying the Order in the manner requested seeks to preserve judicial economy and prevent Plaintiff and Defendants from incurring unnecessary discovery and litigation costs.

DATED: August 4, 2014

HANSON BRIDGETT LLP

By: /s/ Sean P. Thompson  
 SEAN P. THOMPSON  
 JOHN W. KLOTSCHE  
 Attorneys for Plaintiff FRANK M. BOOTH, INC.

DATED: August 4, 2014

TRAINOR FAIRBROOK

By: /s/ Michael Middleton  
 MICHAEL S. MIDDLETON  
 Attorneys for Defendants THERMACOR  
 PROCESS, L.P.; THERMACOR PROCESS,  
 INC.; THERMACOR, L.C.

DATED: August 4, 2014

DOWNEY BRAND LLP

By: /s/ Matthew J. Weber  
 MATTHEW J. WEBER  
 Attorneys for Defendants RICHARD B.  
 BENDER II and JOE KEYES

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**ORDER**

Pursuant to the terms of the parties' stipulation, the request to amend dates within the Pretrial Scheduling Order is GRANTED. The current scheduling order is VACATED and an amended scheduling order will follow.

IT IS SO ORDERED.

Dated: August 4, 2014

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