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17 ELECTRIC COMPANY, INC.

18 **UNITED STATES DISTRICT COURT**  
19 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

20 THE MOUNTAIN CLUB OWNER'S  
21 ASSOCIATION,

22 Plaintiff,

23 v.

24 GRAYBAR ELECTRIC COMPANY, INC.,

25 Defendant / Third-Party Plaintiff,

26 v.

27 GENERAL CABLE CORPORATION,

28 Third-Party Defendant.

Case No.: 2:13-CV-01835-WBS-KJN

**STIPULATION & ORDER TO MODIFY  
PRETRIAL SCHEDULING ORDER TO  
CONTINUE DEADLINES PERTAINING  
TO EXPERT WITNESSES**

COME NOW, Plaintiff, The Mountain Club Owners Association ("Plaintiff"), and Defendant, Graybar Electric Company, Inc. ("Defendant" or "Graybar"), by and through their respective undersigned counsel, and pursuant to FED. R. CIV. P. 16(b)(4) stipulate to modify the Court's Status (Pretrial Scheduling) Order of June 2, 2014 (Doc. # 44), to continue deadlines pertaining to expert witnesses. Good cause exists for the requested modification.

1           WHEREAS, this is a products liability case in which Plaintiff claims that an electric cable  
2 distributed or supplied by Graybar contained a manufacturing defect that caused a fire on  
3 Plaintiff's property (*see* Second Amend. Compl. Doc. # 40, at ¶¶ 8-11);

4           WHEREAS, this Court, after reviewing the parties' Joint Status Report, entered a Status  
5 (Pretrial Scheduling) Order (the "Scheduling Order") on June 2, 2014, establishing various  
6 pleading and discovery deadlines and setting the case for a jury trial on September 9, 2015 (Doc. #  
7 44);

8           WHEREAS, pursuant to the Scheduling Order, the parties have until February 20, 2015 to  
9 disclose experts and produce reports, and with regard to expert testimony intended solely for  
10 rebuttal, the parties shall disclose and produce reports on or before March 13, 2015;

11           WHEREAS, Defendant Graybar, as a result of information recently learned through  
12 discovery, filed a third party Complaint for equitable indemnity against General Cable  
13 Corporation ("General Cable"), the manufacturer of the electric cable at issue, on February 3,  
14 2015 (*see* Doc. #: 49);

15           WHEREAS, Defendant Graybar, pursuant to FED. R. CIV. P. 4(d), notified General Cable  
16 in writing of Graybar's claims against it on February 10, 2015, and requested that General Cable  
17 return an executed waiver of service of summons for the Third-Party Complaint on or before  
18 March 12, 2015;

19           WHEREAS, it is Graybar's position that joinder of General Cable as a third-party  
20 defendant in this matter and as the manufacturer of the electric cable at issue necessitates a  
21 comprehensive modification of the Scheduling Order, including a continuance of the current trial  
22 date;

23           WHEREAS, it is Plaintiff's position that continuance of the current trial date is not  
24 warranted at this time;

25           WHEREAS, in light of the foregoing, it is agreed that immediately pending deadlines  
26 pertaining to expert witnesses should be continued to accommodate the joinder of General Cable  
27 and allow the parties (including General Cable) time to meet and confer regarding more  
28 comprehensive modifications to the Scheduling Order;

1           WHEREAS, a scheduling order entered pursuant to RULE 16(b) “may be modified only for  
2 good cause and with the judge’s consent.” FED. R. CIV. P. 16(b)(4);

3           WHEREAS, good cause exists to continue deadlines pertaining to expert witnesses in that  
4 Graybar has recently impleaded General Cable as a third-party defendant in this action and  
5 additional time is necessary to accommodate the addition of that new party and for the parties to  
6 meet and confer regarding more comprehensive modifications to the Scheduling Order;

7           WHEREAS, it is agreed that, to address immediately pending deadlines and to allow the  
8 parties additional time to meet and confer, the deadline to disclose experts and produce reports be  
9 continued to April 17, 2015 and the date to disclose rebuttal experts and produce reports be  
10 continued to May 1, 2015;

11           WHEREAS, neither party would be prejudiced by the requested extension set forth herein,  
12 and counsel for the parties believe that the interests of justice and efficiency would be served by  
13 an Order granting the requested extensions;

14           WHEREAS, pursuant to the Court’s Order, “[a]ny requests to modify the dates or terms of  
15 [the] Scheduling Order, except requests to change the date of the trial, may be heard and decided  
16 by the assigned Magistrate Judge.” (Doc. # 44 at § IX); and

17           WHEREAS, the instant stipulation does not include a request to continue the trial date,  
18 currently scheduled for September 9, 2015; however, Defendant Graybar believes that a new trial  
19 date is necessary given the joinder of General Cable and, therefore, reserves its right to seek a  
20 comprehensive revision of the current Scheduling Order, including continuance of the trial date,  
21 after the parties, including General Cable, have an opportunity to meet and confer.

22           THEREFORE, the parties respectfully request that the deadline to disclose experts and  
23 produce reports be continued to April 17, 2015 and the date to disclose rebuttal experts and  
24 produce reports be continued to May 1, 2015.

25           IT IS HEREBY STIPULATED by the undersigned that the parties shall disclose experts  
26 and produce reports in accordance with FEDERAL RULE OF CIVIL PROCEDURE 26(a)(2) by no later  
27 than April 17, 2015. With regard to expert testimony intended solely for rebuttal, those experts  
28

1 shall be disclosed and reports produced in accordance with FEDERAL RULE OF CIVIL PROCEDURE  
2 26(a)(2) on or before May 1, 2015.

3  
4  
5  
6 Dated: February 17, 2015                      STOEL RIVES LLP

7  
8 By: /s/ Michael B. Brown  
9 Michael B. Brown  
Attorney for Defendant  
GRAYBAR ELECTRIC COMPANY, INC.

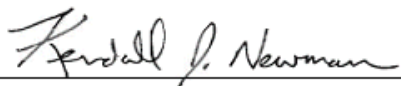
10 Dated: February 17, 2015                      FORAN GLENNON PALANDECH PONZI &  
11 RUDLOFF PC

12 By: /s/ Diana R. Lotfi  
13 DIANA R. LOTFI  
14 Attorney for Plaintiff  
THE MOUNTAIN CLUB OWNER'S ASSOCIATION

15  
16 **ORDER**

17  
18 **IT IS SO ORDERED THAT**, good cause having been shown, the stipulated deadlines  
19 proposed by the parties are approved and adopted by this Court. The parties shall disclose experts  
20 and produce reports in accordance with FEDERAL RULE OF CIVIL PROCEDURE 26(a)(2) by no later  
21 than April 17, 2015. With regard to expert testimony intended solely for rebuttal, those experts  
22 shall be disclosed and reports produced in accordance with FEDERAL RULE OF CIVIL PROCEDURE  
23 26(a)(2) on or before May 1, 2015.

24  
25 Dated: February 18, 2015

26   
27 KENDALL J. NEWMAN  
28 UNITED STATES MAGISTRATE JUDGE