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11 Attorneys for Plaintiff THE MOUNTAIN CLUB OWNER'S  
12 ASSOCIATION

13 **UNITED STATES DISTRICT COURT**  
14 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

16 THE MOUNTAIN CLUB OWNER'S ) Case No. 2:13-CV-01835-WBS-KJN  
17 ASSOCIATION, )  
18 )  
19 Plaintiff, )  
20 vs. ) **AMENDED JOINT STIPULATION AND**  
21 GRAYBAR ELECTRIC COMPANY, INC., ) **[PROPOSED] ORDER MODIFYING**  
22 and DOES 1-50, ) **TRIAL DATE**  
23 )  
24 Defendants. )  
25 vs. ) TRIAL DATE: April 5, 2016  
26 ) TIME: 9:30 p.m.  
27 ) COURTROOM: 5  
28 )  
29 GENERAL CABLE CORPORATION, )  
30 )  
31 Third-Party Defendant. )  
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1 Counsel for Plaintiff MOUNTAIN CLUB OWNER'S ASSOCIATION ("Plaintiff") and  
2 counsel for Defendants GRAYBAR ELECTRIC COMPANY, INC. and GENERAL CABLE  
3 CORPORATION ("Defendants") hereby submit this Amended Joint Stipulation and [Proposed]  
4 Order Modifying Trial Date. Plaintiff and Defendants (hereinafter collectively "Parties") hereby  
5 respectfully submit:

- 6 1. The current trial date is scheduled for April 5, 2016.
- 7 2. The Parties selected Mr. Jerry Spolter of JAMS to mediate the instant matter.
- 8 3. The earliest date that Mr. Spolter was available was March 22, 2016. To that  
9 end, the mediation has been scheduled for March 22, 2016 at 10:00 a.m. in San  
10 Francisco, California.
- 11 4. At the pre-trial conference, the Court suggested – and the Parties agreed – to  
12 enter into discussions in an attempt to see whether a stipulation regarding  
13 damages could be reached. As reflected in the Pre-Trial Order, the Plaintiff's  
14 seek approximately \$6.3M and Defendants contend damages are closer to  
15 approximately \$5M. A stipulation on damages would significantly reduce the  
16 amount of time needed for trial.
- 17 5. The Parties are seeking the assistance of Mr. Spolter to help mediate a  
18 resolution to the entire case or, in the alternative, get the Parties to reach an  
19 agreement on damages. The Parties are optimistic that, at a minimum, a  
20 stipulation regarding damages can be reached.
- 21 6. A stipulation on damages will alter how the case is to be presented to the jury.  
22 A resolution of the issues that pertain to damages impacts the preparation of  
23 exhibits to be introduced into evidence, the testimony of fact witnesses, the  
24 testimony (or need for) certain expert witnesses, and the jury instructions.
- 25 7. While the Parties previously discussed mediation, the completion of expert  
26 depositions in December 2015 as well as the Court's January 27, 2016 ruling on  
27 the recent summary judgment motion was needed to realistically provide the  
28 best possible chance to yield successful results at a mediation.

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- 8. In early February 2016, the Parties exchanged ideas on who to retain as a mediator and possible mediation dates. There was some difficulty finding a mediator acceptable to both sides of this dispute as well as a date that would work for both law firms and the four (4) client representatives required to attend the mediation. Ultimately, the Parties agreed on Mr. Spolter of JAMS. However, the earliest availability that for Mr. Spolter, the Parties, and the representatives was March 22, 2016.
- 9. In an effort to narrow the trial preparations to focus on only those issues that may remain after the March 22, 2016 mediation, the Parties jointly request a short extension of the trial date to May 24, 2016.
- 10. The trial date shall be continued from April 5, 2016 until May 24, 2016 at 9:00 a.m.

**IT IS SO STIPULATED.**

Dated: February 24, 2016                      FORAN GLENNON PALANDECH PONZI & RUDLOFF PC


By: /s/ James B. Glennon  
 JAMES B. GLENNON, ESQ.  
 Attorney for Plaintiff, THE MOUNTAIN CLUB  
 OWNER'S ASSOCIATION

Dated: February 24, 2016                      HASSARD BONNINGTON LLP

By: /s/ Philip S. Ward  
 PHILIPS S. WARD, ESQ.  
 Attorney for Defendants GRAYBAR ELECTRIC  
 COMPANY, INC. and Third-Party Defendant GENERAL  
 CABLE CORPORATION

**IT IS SO ORDERED.**

Dated: February 24, 2016

  
 WILLIAM B. SHUBB  
 UNITED STATES DISTRICT JUDGE

**AFFIDAVIT AND DECLARATION OF PROOF OF SERVICE**

I am over the age of eighteen years and not a party to the within action. I am employed by Foran Glennon Palandech Ponzi & Rudloff PC, whose business address is 450 Newport Center Drive, Suite 630, Newport Beach, California 92660 (“the firm”).

On February 24, 2016, I served the within document(s) described as: **AMENDED JOINT STIPULATION AND [PROPOSED] ORDER MODIFYING TRIAL DATE** on the interested parties in this action by placing true copy(ies) thereof enclosed in sealed envelope(s) addressed as follows:

**BY MAIL** (Code Civ. Proc. §§ 1013a(3))—I deposited such envelope(s) for processing in the mailroom in our offices. I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Newport Beach, California, in the ordinary course of business. I am aware that on motion of a party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

**BY FAX** (Code Civ. Proc. § 1013(a), (e); Cal. Rules of Court, Rule 2.306)—By transmitting said document(s) by electronic facsimile at approximately .m. at 450 Newport Center Drive, Suite 630, California 92660, to the respective facsimile number(s) of the party(ies) as stated on the attached mailing list. The facsimile machine I used complied with California Rules of Court, Rule 2.301, and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2.306, I caused the machine to print a record of the transmission, a copy of which is attached to this declaration.

**BY E-MAIL OR ELECTRONIC TRANSMISSION** (Code Civ. Proc. § 1010.6(a)(6))—Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

● **BY ELECTRONICALLY** serving the document(s) described above via United States District Court Electronic Case Filing website (CM/ECF notification system) on the recipients listed below on the attached service list, and designated on the electric service list that is located on the Pacer website.

● **(Federal Courts Only)** I declare that I am employed in the office of a member of this court at whose direction this service was made.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 24, 2016, at Newport Beach, California.



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CELIA M. CAMACHO

**SERVICE LIST**

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Philip S. Ward, Esq.  
Joanna L. Storey, Esq.  
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Third-Party Defendant GENERAL CABLE  
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