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8 Attorneys for Plaintiffs, JOSEPH TERRAS AND BOBBY TYLER
9 on behalf of themselves and all others similarly situated

10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**

12 **SACRAMENTO DIVISION**

13 JOSEPH TERRAS, and BOBBY
14 TYLER, as individual California
15 residents, on behalf of themselves and
16 all others similarly situated,

17 Plaintiffs,

18 vs.

19 TRINITY RIVER LUMBER
20 COMPANY, a California corporation;
21 and DOES 1 through 100, inclusive,

22 Defendant.

Case No.: 2:14-CV-02277-MCE-CMK

**STIPULATION AND ORDER FOR
PLAINTIFFS TO FILE THEIR
FIRST AMENDED COMPLAINT**

**[Fed. R. Civ. P. 15; E.D. Cal. Local R.
137, 143 and 220]**

Hon. Morrison C. England, Jr.

Date Filed: September 30, 2014
Trial Date: NONE SET

1 WHEREAS, On September 30, 2014, Plaintiffs JOSEPH TERRAS, and
2 BOBBY TYLER (collectively “Plaintiffs”), as individual California residents, on
3 behalf of themselves and all others similarly situated, filed a Complaint asserting a
4 hybrid putative class and collective action against Defendant TRINITY RIVER
5 LUMBER COMPANY (“Defendant”), a California corporation.

6 WHEREAS, On December 15, 2014, Defendant filed its Motion to Dismiss,
7 For A More Definite Statement and to Strike the Complaint (“Motion”), that is
8 presently set for hearing on February 19, 2015.

9 WHEREAS, although Plaintiffs and Defendants (“Parties”) have been
10 working together in a good faith attempt to resolve the issues raised by
11 Defendant’s Motion and Plaintiffs have prepared a draft of their First Amended
12 Complaint, Defendant contends that the First Amended Complaint still has many
13 of the fatal deficiencies raised in its Motion, including the failure to allege facts
14 required for Plaintiffs’ claims and allegations. The Parties are still working
15 towards resolving those disputed issues prior to the filing of the First Amended
16 Complaint.

17 WHEREAS, the Parties agree that the First Amended Complaint will be
18 filed before the February 19, 2015 hearing date, and that Defendant shall have the
19 right to file a response to the First Amended Complaint to raise any deficiencies it
20 claims may still exist as to the First Amended Complaint and any subsequent
21 amended pleading.

22 THEREFORE, pursuant to the Federal Rules of Civil Procedure Rule 15 and
23 Civil Local Rules 220, 143 and 137, Plaintiffs and Defendant, through their
24 undersigned counsel, hereby stipulate and agree to the following:

25 1. Plaintiffs shall file their First Amended Complaint prior to February
26 19, 2015. A draft of the First Amended Complaint to be filed is attached hereto as
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1 Exhibit A, and is subject to further modification based upon the discussions of the
2 Parties to resolve their disputes regarding the First Amended Complaint. ;

3 2. The Parties agree that Plaintiffs have the right, subject to approval of
4 the Court, to file a Second Amended Complaint, if necessary; and

5 3. Defendant agrees to withdraw its Motion to Dismiss, for a More
6 Definite Statement and to Strike Plaintiffs' Complaint that is presently set for
7 hearing on February 19, 2015, provided that Plaintiffs file their First Amended
8 Complaint prior to that hearing date. Defendant retains the right to file a response,
9 including another appropriate motion, to the First Amended Complaint, or to the
10 Second Amended Complaint if one is filed. Defendant shall have 14 days after
11 service of the First Amended Complaint (or service of a Second amended
12 Complaint if one is filed) to file its response and/or another motion thereto.

13 AGREED TO BY:

14
15 DATED: February 4, 2015 JOSE GARAY, APLC

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17 By: _____ s/s _____
18 JOSE GARAY, Attorney for Plaintiffs JOSEPH
19 TERRAS and BOBBY TYLER

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21 DATED: February 4,, 2015 GURNEE MASON & FORESTIERE LLP

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23 By: _____ s/s _____
24 Steven H. Gurnee
25 Nicholas P. Forestiere
26 Attorneys for Defendant
27 Trinity River Lumber Company

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ORDER

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3 In accordance with the foregoing stipulation, and good cause appearing,
4 Plaintiffs have leave to file a First Amended Complaint not later than February 18,
5 2015. In the meantime, Defendant's Motion to Dismiss, Motion for a More
6 Definite Statement and Motion to Strike (ECF No. 8) is hereby withdrawn and the
7 hearing date of February 19, 2015 is vacated.
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10 IT IS SO ORDERED.
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12 Dated: February 11, 2015
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15 MORRISON C. ENGLAND, JR., CHIEF JUDGE
16 UNITED STATES DISTRICT COURT
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