

THEODORA TO ORINGHER
COUNSELORS AT LAW

1 Timothy J. Gorry, Esq. (State Bar No. 143797)
Edward E. Johnson, Esq. (State Bar No. 241065)
2 THEODORA ORINGHER PC
1840 Century Park East, Suite 500
3 Los Angeles, California 90067-2120
Telephone: (310) 557-2009
4 Facsimile: (310) 551-0283

5 Attorneys for Plaintiff
AGK Sierra de Montserrat, L.P.
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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA - SACRAMENTO DIVISION**

11 AGK SIERRA de MONTSERRAT,
L.P., a Delaware limited partnership,

12 Plaintiff,

13 vs.

14 COMERICA BANK, a Texas
15 corporation; and DOES 1 through 10,
16 inclusive,

17 Defendants.

Case No. 2:15-cv-01280-KJM-DB

Honorable Kimberly J. Mueller

**STIPULATION TO EXTEND
DISCOVERY CUTOFF**

Complaint Filed: April 29, 2015
Trial Date: July 17, 2017

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20 Plaintiff AGK Sierra de Montserrat, L.P. (“AGK”) and Defendant Comerica
21 Bank (“Comerica”) hereby stipulate and agree as follows:

22 WHEREAS, on November 5, 2015, the Court entered a scheduling order setting
23 the fact discovery cutoff for August 18, 2016 [ECF Docket No. 11];

24 WHEREAS, the parties have agreed that additional time is required to complete
25 fact discovery, in part due to the severely impacted schedule of lead trial counsel for
26 Comerica, Frank R. Perrott:

- 27 • For the past several months, Mr. Perrott has been preparing for trial as the lead
28 attorney in two cases – *Delmanowski v. Gordon*, Sonoma County Superior Court

1 Case No. SCV254939, and *County of Calaveras v. Thornton*, El Dorado County
2 Superior Court Case No. SC20150086. The *Delmanowski* matter had an original
3 trial date of March 11, 2016, which was then continued to April 22, 2016. In
4 addition to preparing for the trial in the *Delmanowski* case, Mr. Perrott had a trial
5 date of March 21, 2016, in the *County of Calaveras* case, which was vacated by
6 the court to accommodate Mr. Perrott's trial in the *Delmanowski* case and
7 continued to August 8, 2016. Thus, Mr. Perrott has been continuously preparing
8 for trial since February of 2016 and he will begin a minimum 10-day jury trial in
9 the *County of Calaveras* case on August 8, 2016.

- 10 • Mr. Perrott is or has been the lead attorney in the present case and numerous
11 related cases involving related subject matter including: (1) *Comerica v. Curtis*
12 *A. Westwood*, Sacramento County Superior Court Case No. 34-2009-00037023;
13 (2) *Westwood Homes, Inc. v. Comerica Bank*, Sacramento County Superior
14 Court Case No. 34-2010-00073815; (3) *Westwood Montserrat, Ltd. v. AGK*
15 *Sierra De Montserrat L.P.*, Placer County Superior Court Case No.
16 SCV0028027; (4) *Wildlife Heritage Foundation v. Comerica Bank*, Placer
17 County Superior Court Case No. SCV0028106; (5) *Comerica Bank v. Westwood*
18 *Homes, Inc.*, Sacramento County Superior Court Case No. 34-2012-00124602;
19 and (6) *Westwood Montserrat, Ltd. v. Comerica Bank*, Placer County Superior
20 Court Case No. SCV0034161. Due to Mr. Perrot's intimate knowledge of the
21 underlying facts, his significant participation during the depositions of the key
22 percipient and expert witnesses in the present case is essential for the effective
23 and cost-efficient representation of Comerica.
- 24 • The parties have been working diligently to complete discovery. Among other
25 things, Comerica recently subpoenaed voluminous records from third-party
26 witness First American Title Insurance Company.

27 WHEREAS, a 60-day extension of the fact discovery cutoff will not require the
28 modification of the trial date or any other date set in the Scheduling Order;

1 WHEREAS, this is the first request by either party to extend any date in the
2 Scheduling Order, and the request is made in good faith and not for the purpose of
3 delay.

4 NOW, THEREFORE, IT IS HEREBY STIPULATED that the fact discovery
5 cutoff should be extended by 60 days, to October 17, 2016.

6 IT IS SO STIPULATED.

7 DATED: August 8, 2016 THEODORA ORINGHER PC

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9 By: /s/ Edward E. Johnson
10 Edward E. Johnson
11 Attorneys for Plaintiff
12 AGK Sierra de Montserrat, L.P.

13 DATED: August 7, 2016 LEWIS BRISBOIS BISGAARD & SMITH LLP

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15 By: /s/ Frank R. Perrott
16 Frank R. Perrott
17 Attorneys for Defendant Comerica Bank

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19 For good cause shown in the parties' stipulation, the request to continue
20 is approved. All fact discovery shall be completed by October 17, 2016. The
21 balance of the status (pretrial scheduling) order, ECF No. 11, remains in effect.

22 IT IS SO ORDERED.

23 Dated: August 15, 2016

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26 UNITED STATES DISTRICT JUDGE
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