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

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

12 Plaintiff,

13 vs.

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

16 Defendants.
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Case No. 2:15-cv-01280-KJM-DAD

Honorable Kimberly J. Mueller

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 19 **STIPULATION AND ORDER TO**
EXTEND STAY OF ACTION

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

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

21 WHEREAS, AGK alleges in this indemnity action that Comerica is obligated
 22 to indemnify it for any liability and expenses incurred in certain litigation matters,
 23 including a case pending in the California Superior Court, County of Placer, titled
 24 *Westwood Montserrat, Ltd. v. AGK Sierra de Montserrat, Ltd., et al.*, Case No.
 25 SCV0032447 (the “Westwood Action”);

26 WHEREAS, trial in the Westwood Action is currently set for June 26, 2017,
 27 having been continued from February 27, 2017;

THEODORA ORINGHER
 COUNSELORS AT LAW

1 WHEREAS, because Comerica’s potential liability in this action might
2 depend on the outcome of the Westwood Action, the parties are unable to complete
3 discovery or meaningfully consider settlement until the Westwood Action is
4 resolved;

5 WHEREAS, among other things, according to a motion for summary
6 adjudication recently filed by the plaintiff in the Westwood Action, the plaintiff is
7 seeking at least \$3.6 million in damages or restitution, so a judgment in AGK’s
8 favor in the Westwood Action would potentially reduce AGK’s alleged damages
9 and Comerica’s alleged liability in this action by at least \$3.6 million, increasing the
10 likelihood of any settlement;

11 WHEREAS, on November 5, 2015, the Court entered a scheduling order
12 setting the final pretrial conference for May 19, 2017, trial for July 17, 2017, and
13 other case deadlines [ECF Docket No. 11];

14 WHEREAS, on October 13, 2016, the Court entered a stay of this action
15 through May 5, 2017 and vacated all other dates [ECF Docket No. 27];

16 WHEREAS, the parties agree that extending the stay by approximately five
17 months, until roughly three months after the anticipated completion of the trial in the
18 Westwood Action, is warranted to conserve judicial resources and the resources of
19 the parties, to permit time for resolution of the Westwood Action, and provide the
20 parties with the opportunity to meaningfully consider settlement in light of the
21 outcome of the Westwood Action;

22 WHEREAS, this Stipulation and Order is without prejudice to the right of
23 either party to request at any time that the Court lift the stay prior to October 2,
24 2017, or extend the stay past October 2, 2017.

25 NOW, THEREFORE, IT IS HEREBY STIPULATED that:

26 (1) this action should remain stayed in its entirety through October 2, 2017;
27 and

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(2) a scheduling conference should be set for November 9, 2017 to reset the trial date and other case deadlines.
IT IS SO STIPULATED.

DATED: May 3, 2017

THEODORA ORINGHER PC

By: /s/ Edward E. Johnson

Timothy J. Gorry
Edward E. Johnson
Attorneys for Plaintiff
AGK Sierra de Montserrat, L.P.

DATED: May 3, 2017

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/ Frank R. Perrott (as authorized on 5/2/2017)

Frank R. Perrott
Attorneys for Defendant Comerica Bank

IT IS SO ORDERED that:

- 1) this action shall remain stayed in its entirety through October 2, 2017;
- 2) the status conference set for May 11, 2017 at 2:30 p.m. is vacated; and
- 3) a scheduling conference is set for November 9, 2017 at 2:30 p.m. to reset the trial date and other case deadlines. The parties shall confer and file a joint conference statement by November 2, 2017.

DATED: May 9, 2017


UNITED STATES DISTRICT JUDGE