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11 *Attorneys for Plaintiffs, ROBERT WESTFALL, DAVID E. ANDERSON, LYNN BOBBY, and*
 12 *DAVID ELLINGER*

13 UNITED STATES DISTRICT COURT
 14 EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

16 ROBERT WESTFALL, DAVID E.
 17 ANDERSON, LYNN BOBBY, and
 18 DAVID ELLINGER,

19 Plaintiffs,

20 v.

21 BALL METAL BEVERAGE
 22 CONTAINER CORP.,

23 Defendant.

Case No: 2:16-cv-02632-KJM-GGH

**JOINT FURTHER SCHEDULING
 STIPULATION; ORDER**

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1 Plaintiffs ROBERT WESTFALL, DAVID E. ANDERSON, LYNN BOBBY, and
2 DAVID ELLINGER (hereinafter, “Plaintiffs”), and Defendant BALL METAL BEVERAGE
3 CONTAINER CORP. (hereinafter, “Defendant”) (hereinafter, collectively, the “Parties”),
4 hereby stipulate as follows:

5 WHEREAS, at the April 26, 2018 further status conference in this action (hereinafter,
6 the “Conference”), the Parties and the Court discussed a possible motion by Defendant to
7 amend the default limit of ten (10) depositions per side set forth in Rule 30(a)(2)(A)(i) of the
8 Federal Rules of Civil Procedure, or in the alternative, a stipulation of the Parties in such
9 regard, with the Court commenting that any motion in such regard should be filed within thirty
10 (30) days of the Conference;

11 WHEREAS, at the Conference, the Parties and the Court also discussed a possible
12 motion by Defendant to compel Plaintiffs to submit a trial plan pursuant to *Duran v. U.S. Bank*
13 *Nat’l Assn*, 54 Cal.4th 1 (2014) (hereinafter, a “Trial Plan”);

14 WHEREAS, in its May 10, 2018 Status (Pretrial Scheduling) Order (Document No.
15 74) (hereinafter, the “May 10, 2018 Order”), the Court set a deadline for a motion to compel a
16 Trial Plan for within thirty (30) days of the Conference;

17 WHEREAS, because thirty (30) days from April 26, 2018 is May 26, 2018, a Saturday,
18 and May 28, 2018 is a federal holiday (Memorial Day), pursuant to Rule 6(a)(1) of the Federal
19 Rules of Civil Procedure, the deadline for Defendant’s Motion to compel a Trial Plan is
20 Tuesday, May 29, 2018, and the Parties understand that, although the May 10, 2018 Order
21 does not reference a deadline for Defendant’s motion from the above-referenced ten (10)-
22 deposition limit, based on the Court’s comments at the Conference the Parties understand that
23 the same deadline of May 29, 2018 applies to a such a motion by Defendant relating to the
24 deposition limit;

25 WHEREAS, the Parties have conferred both by email and telephone regarding a
26 potential stipulation to relief from the aforementioned ten (10)-deposition limit, as well as the
27 submission of a Trial Plan by Plaintiffs;

28 WHEREAS, the Parties have not yet reached an agreement, but believe that they may

1 be able to do so based on further meet-and-confer efforts;

2 WHEREAS, the Parties are also in the process of discussing the possibility of an
3 additional mediation in the near future with Mr. Alan Berkowitz (who mediated the case
4 previously);

5 WHEREAS, the Parties believe they will know by Friday, June 1, 2018 whether they
6 will be proceeding to such a further mediation;

7 WHEREAS, if the Parties do proceed to a mediation in the near future, it may not be
8 necessary to have a Trial Plan or further depositions until a later date after mediation;

9 WHEREAS, if the Parties do not proceed to a mediation in the near future, they should
10 be able to report to the Court regarding the status of same, and to complete their meet-and-
11 confer efforts regarding depositions and a Trial Plan, by Friday, June 8, 2018.

12 NOW THEREFORE, the Parties stipulate that the deadlines for Defendant to file
13 motions to compel a Trial Plan and for relief from the aforementioned deposition limit should
14 be continued to June 8, 2018, and that by June 1, 2018 the Parties should report to the Court
15 regarding the status of scheduling a further mediation, including whether any further
16 continuances of the aforementioned June 8, 2018 deadlines are warranted to avoid unnecessary
17 motions and proceedings prior to mediation.

18 Dated: May 25, 2018 FISHER & PHILLIPS LLP

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20 By: /s/ Christopher M. Ahearn
21 JOHN K. SKOUSEN
22 CHRISTOPHER M. AHEARN
23 Attorneys for Defendant
24 BALL METAL BEVERAGE CONTAINER CORP.

25 Dated: May 25, 2018 EASON & TAMBORNINI, ALC

26 By: /s/ Erin M. Scharg (as authorized on May 25, 2018)
27 MATTHEW R. EASON
28 ERIN M. SCHARG
Attorneys for Plaintiffs ROBERT WESTFALL, DAVID E.
ANDERSON, LYNN BOBBY, and DAVID ELLINGER

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ORDER

Pursuant to the foregoing stipulation and joint report, and good cause appearing therefor, IT IS ORDERED that:

The deadlines for Defendant to file motions to compel a trial plan pursuant to *Duran v. U.S. Bank Nat'l Ass'n*, 54 Cal.4th 1 (2014), and for relief from the deposition limit set forth in Rule 30(a)(2)(A)(i) of the Rules of Civil Procedure, are continued to June 8, 2018. By June 1, 2018, the Parties shall file a joint report on the status of scheduling a further mediation, including whether any further continuances of the June 8, 2018 deadline are warranted.

DATED: June 4, 2018.


UNITED STATES DISTRICT JUDGE