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15 **UNITED STATES DISTRICT COURT**  
 16 **EASTERN DISTRICT OF CALIFORNIA**  
 17 **(Sacramento Division)**

19 SUSTAINABLE PAVEMENT  
 TECHNOLOGIES, LLC,

20 Plaintiff,

21 v.

22 RICH HOLIDAY, RYAN (TIM) BONARI,  
 23 JPMORGAN CHASE BANK, N.A., and  
 24 BANK OF AMERICA, N.A.,

25 Defendants.

CASE NO. 2:17-cv-02687-WBS-KJN

**STIPULATION AND [PROPOSED] ORDER  
 TO CONTINUE HEARING DATE (ECF NO.  
 51) AND AMEND THE STATUS (PRE-TRIAL  
 SCHEDULING) ORDER (ECF NO. 24)**

1 IT IS HEREBY STIPULATED by and between Plaintiff Sustainable Pavement Technologies,  
2 LLC (“SPT”) and Defendant JPMorgan Chase Bank, N.A. (“Chase”) (collectively the “Parties”), through  
3 their respective counsel, that (i) a Settlement Conference be set on December 6, 2018 before Magistrate  
4 Judge Newman, (ii) that the hearing date for Chase’s Motion for Summary Judgement, or in the  
5 Alternative Partial Summary Judgment (ECF No. 51) be continued, and (iii) that the Status (Pre-trial  
6 Scheduling) Order (ECF No. 24) be amended to continue the current Pre-Trial Conference and Trial  
7 dates.

8 I. PROCEDURAL HISTORY

9 On April 23 2018, the Court entered a Status (Pre-trial Scheduling) Order, which included the  
10 following deadlines:

11 Dispositive Motion Deadline: October 30, 2018

12 Final Pre-Trial Conference: December 3, 2018 at 1:30 p.m.

13 Trial: January 8, 2019 at 9:00 a.m.

14 ECF No. 24.

15 On October 30, 2018, Chase filed its Motion for Summary Judgement, or in the Alternative  
16 Partial Summary Judgment (the “Motion”) (ECF No. 51) and set the Motion to be heard on the first  
17 available date, December 10, 2018. On November 7, 2018, the Court reset the hearing for Chase’s  
18 Motion to December 3, 2018 on the Court’s own motion. (ECF No. 53.)

19 Shortly after filing the Motion, Chase was requested by Court personnel to meet and confer with  
20 SPT’s counsel and come to an agreement to continue both the Final Pre-Trial Conference and Trial to a  
21 date after the hearing on Chase’s Motion. Court personnel advised Chase that January 28, 2019 and  
22 March 12, 2019 were both available dates on which to set the continued Final Pre-Trial Conference and  
23 Trial, respectively.

24 Counsel for Chase and SPT met, conferred, and agreed to set a settlement conference on  
25 December 6, 2018, a date on which Magistrate Judge Kendall J. Newman is available.

26 The Parties further agreed that it would be prudent to continue the hearing and briefing dates for  
27 the Motion, and the Pre-Trial and Trial dates, to permit the Parties to engage in the settlement  
28 negotiations without incurring additional legal costs and expenses.

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2 II. LEGAL STANDARD

3 Federal Rule of Civil Procedure 16 provides that a pretrial schedule “may be modified only for  
4 good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4). The Parties must demonstrate that  
5 they acted with diligence in complying with the scheduling order’s deadlines and in seeking leave to  
6 amend. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). “Good cause” exists  
7 when a deadline “cannot reasonably be met despite the diligence of the party seeking the extension.”  
8 *Johnson*, 975 F.2d at 609 (citation omitted). Thus, “Rule 16(b)’s ‘good cause’ standard primarily  
9 considers the diligence of the party seeking the amendment.” *Id.*; *see also Coleman v. Quaker Oats Co.*,  
10 232 F.3d 1271, 1294 (9th Cir. 2000).

11 III. DISCUSSION

12 The Parties stipulate that good cause exists to continue the hearing date on Chase’s Motion and  
13 amend the Scheduling Order because the requested continuances will allow the Parties the opportunity to  
14 engage in a meaningful settlement conference without incurring additional legal costs and expenses, or,  
15 should the case not be settled, enable both the Parties and the Court to more efficiently resolve and/or  
16 narrow their focus on any remaining issues as they prepare this matter for trial.

17 The Parties bring this request in a reasonable amount of time in advance of the current trial date  
18 so as to give the Court adequate notice with regard to the management of its docket. Also, this is the first  
19 such continuance that the Parties have requested or received, and neither Party will be prejudiced by a  
20 continuance.

21 Accordingly, the Parties propose the following amended schedule:

22 Settlement Conference: December 6, 2018.

23 Plaintiff’s Opposition to Chase’s Motion: December 14, 2018.

24 Chase’s Reply in Support of Chase’s Motion: December 21, 2018.

25 Hearing on Chase’s Motion: January 7, 2019.

26 Final Pre-Trial Conference: January 28, 2019 at 1:30 p.m.

27 Trial: March 12, 2019 at 9:00 a.m.

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2 IV. CONCLUSION

3 Based on the foregoing, the Parties respectfully request that the Court issue an Order continuing  
4 the Hearing regarding Chase's Motion and amending the Status (Pre-trial Scheduling) Order.

5 IT IS SO STIPULATED.

6 Respectfully submitted,

7 Dated: November 14, 2018

GREENBERG TRAURIG, LLP

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9 By: /s/ Kurt A. Kappes

Kurt A. Kappes

10 Michael D. Lane

11 Attorneys for Defendant

JPMORGAN CHASE BANK, N.A.

12 Dated: November 14, 2018

SERLIN & WHITEFORD, LLP

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/s/ Mark A. Serlin (as authorized on 11/14/18)

14 Mark A. Serlin

Attorneys for Plaintiff

15 SUSTAINABLE PAVEMENT TECHNOLOGIES, LLC

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1 ORDER

2 Pursuant to the stipulation of the Parties herein and for good cause shown, it is hereby ordered  
3 that the hearing date and briefing schedule for Chase's Motion for Summary Judgment, or in the  
4 Alternative, Partial Summary Judgment (ECF No. 51) is set, and the Status (Pre-trial Scheduling) Order  
5 is amended as follows:

6 Settlement Conference: December 6, 2018 at 9:00 a.m.

7 Plaintiff's Opposition to Chase's Motion: December 14, 2018.

8 Chase's Reply in Support of Chase's Motion: December 21, 2018.

9 Hearing on Chase's Motion: January 7, 2019.

10 Final Pre-Trial Conference: **February 25, 2019 at 1:30 p.m.**

11 Trial: **April 2, 2019 at 9:00 a.m.**

12 IT IS SO ORDERED.

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14 Dated: November 15, 2018



15 WILLIAM B. SHUBB  
16 UNITED STATES DISTRICT JUDGE  
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