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 WAVELAND SERVICES, INC.

17 **UNITED STATES DISTRICT COURT**
 18 **EASTERN DISTRICT OF CALIFORNIA**

20 MARLIN MCCLURE, an individual, for
 himself and those similarly situated,

21 Plaintiffs,

22 v.

23 WAVELAND SERVICES INC., a Louisiana
 24 corporation doing business in California; and
 DOES 1 through 100, inclusive,

25 Defendants.

Case No. 2:18-cv-01726-KJM-AC

**JOINT ADMINISTRATIVE MOTION STAY
 CASE PENDING UNITED STATES
 SUPREME COURT DECISION**

Complaint Filed: June 14, 2018
 First Amended Complaint Filed: Sept. 21, 2018
 Trial Date: None Set
 Judge: Hon. Kimberly J. Mueller

1 Plaintiff MARLIN McCLURE and defendant WAVELAND SERVICES, INC.
2 (hereinafter the “parties”) jointly seek via this administrative motion an order of the Court
3 vacating all current court deadlines and staying this matter for all purposes for a limited period of
4 time pending the outcome of the United States Supreme Court decision in *Newton v. Parker*
5 *Drilling Management* No. 18-389 (*Certiorari* granted January 11, 2019).

6 1. On September 13, 2018 the Court held its Status (Pretrial Schedule) Conference
7 before Judge Kimberly Mueller. At the conference the parties discussed the pending petition for
8 certiorari in the *Newton v. Parker Drilling* matter, and that disposition of the *Newton* matter would
9 substantially affect the outcome of the present case, and that a stay may be required should
10 *certiorari* be granted. The Court invited the parties to return with the court with pleadings
11 regarding a stay, should that occur.

12 2. The following dates were set after the conference via scheduling order on October
13 11, 2018 [024]

- 14 a. Close of Fact Discovery: May 1, 2019
- 15 b. Designation of Expert Witnesses: July 1, 2019
- 16 c. Close of Expert Discovery: September 12, 2019
- 17 d. Last Court day for hearing on Summary Judgment: November 2, 2019

18 3. The Parties have been in active negotiations on settlement from the date of the
19 initial status conference through the present date, including a formal mediation with mediator
20 Steve Pearl, and a formal in-person settlement conference with all parties in attendance.

21 4. On January 11, 2019 the Supreme Court of the United States granted certiorari in
22 the matter of *Newton v. Parker Drilling Management* No. 18-389 (*Certiorari* granted January
23 11, 2019).

24 5. Plaintiff’s claims in this case rely in significant part on the Ninth Circuit’s holding
25 in *Newton*, which the Supreme Court has elected to review. How the Supreme Court ultimately
26 decides the threshold issue will therefore substantially impact this case.

27 6. District Courts have the inherent power to “stay proceedings in one suit until the
28 decision of another” in furtherance of administration of justice. *Landis v. N. Am. Co.* (1936) 199

1 U.S. 248, 249. The purpose of this power is to permit every court to control the disposition of
2 cases on its docket “with economy of time and effort for itself, for counsel, and for litigants.” *Id.*
3 at 254-55. The Landis factors are [1] the hardship or inequity which a party may suffer in being
4 required to go forward, [2] the possible damage which may result from the granting of a stay, and
5 [3] the orderly course of justice. *Id.*

6 7. The granting of certiorari is an appropriate time to stay cases reliant upon the case
7 under review. *See Robledo v. Randstad US, L.P.*, No. 17-CV-01003-BLF, 2017 WL 4934205, at
8 *2 (N.D. Cal. Nov. 1, 2017) (where certiorari had been granted by the Supreme Court on a
9 threshold issue, Judge freeman stayed the case, finding succinctly that “...if the Supreme Court
10 upholds the Ninth Circuit's decision...the Plaintiffs have the stronger case...However, if the
11 Supreme Court reverses the Ninth Circuit...Randstad has a strong likelihood of prevailing...”)

12 8. The stay would alleviate the hardship or inequity to both parties of litigating a case
13 that could ultimately be rendered moot or at least seriously impacted; presents no damage
14 resulting from the stay; and promotes the orderly course of justice as both parties await the
15 pending threshold decision from the highest court in the land, which has granted certiorari to the
16 issue.

17 9. No trial date has been set, so this request will not impact any pending trial dates.

18 10. Accordingly, the parties jointly seek via this administrative motion a stay of the
19 current action, including vacating of the current dates in the action until the United States Supreme
20 Court has decided the threshold issue presented in *Newton*. As the parties anticipate the Supreme
21 Court will issue its decision no earlier than July 2019, the parties would request that Court set a
22 Status Conference in August 2019.

23 THEREFORE, the parties jointly request that the Court enter an Order:

- 24 1. Vacating all dates;
- 25 2. Staying this matter until such time that the stay order is lifted by this Court; and
- 26 3. Setting a Status Conference for a date in August 2019.

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28 IT IS SO STIPULATED THROUGH COUNSEL OF RECORD.

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DATED: February 12, 2019

STRAUSS & STRAUSS, APC

By: /s/ Aris E. Karakalos
Michael A. Strauss
Aris E. Karakalos
Andrew C. Ellison
Attorneys for Plaintiff
MARLIN McCLURE and the
Putative Class

DATED: February 12, 2019

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

By: /s/ Jason P. Brown
Douglas J. Farmer
Jason P. Brown
Attorneys for Defendant
WAVELAND SERVICES, INC.

SIGNATURE ATTESTATION

I attest that I have obtained concurrence in the filing of this document from the other
signatory.

DATED: February 12, 2019

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

By: /s/ Jason P. Brown
DOUGLAS J. FARMER
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JASON P. BROWN
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ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

A Status Conference is ordered to take place on August 15, 2019 at 2:30 PM in Courtroom 3 in the United States District Court for the Eastern District of California before District Judge Kimberly J. Mueller, with the filing of a joint status report due seven days prior.

DATED: February 20, 2019.


UNITED STATES DISTRICT JUDGE