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 BCP MECHANICAL, LLC

8  
 9 UNITED STATES DISTRICT COURT  
 10 EASTERN DISTRICT OF CALIFORNIA

11  
 12 UNITED STATES OF AMERICA, for the  
 use and benefit of BCP MECHANICAL,  
 13 LLC, a California limited liability company

14 Use-Plaintiff,

15 v.

16 ANDERSON BURTON  
 CONSTRUCTION, INC., a California  
 17 corporation; WESTERN SURETY  
 COMPANY, a South Dakota corporation,

18  
 19 Defendants.

20 ANDERSON BURTON  
 CONSTRUCTION, INC.,  
 21  
 22 Cross-Claimant,

23 v.

24 BCP MECHANICAL, LLC,  
 25  
 26 Cross-Defendant.

CASE NO. 2:20-cv-01401-TLN-KJN

**STIPULATION TO AMEND  
 SCHEDULING ORDER AND ORDER  
 THEREON**

Complaint Filed: July 10, 2020  
 Cross-Claim Filed: September 22, 2020

Judge: Hon. Troy L. Nunley  
 Trial Date: None Set

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1 Pursuant to Federal Rules of Civil Procedure, Rule 16(b)(4), Plaintiff and Cross-  
2 Defendant BCP MECHANICAL, LLC (“BCP”), Defendant and Cross-Complainant  
3 ANDERSON BURTON CONSTRUCTION, INC., (“ABCI”) and Defendant WESTERN  
4 SURETY COMPANY (“Western Surety”; collectively the “Parties”), by and through their  
5 respective counsel of record, hereby stipulate as follows:

6 WHEREAS on July 10, 2020, BCP filed the instant action for Recovery on Miller  
7 Act Payment Bond, Breach of Contract, Quantum Meruit and Open Book Account related  
8 to a federal construction project for the U.S. Army Corps of Engineers (the “Action”);

9 WHEREAS on September 22, 2020, ABCI filed a Cross-Claim against BCP for  
10 Breach of Written Contract (the “Cross-Claim”);

11 WHEREAS on August 28, 2020, BCP filed a separate action against ABCI and  
12 Western Surety in the Superior Court for the County of San Luis Obispo, Case No. 20CV-  
13 0388, for Recovery on Payment Bond, Breach of Written Contract, Quantum Meruit, and  
14 Open Book Account on five (5) separate construction projects (the “State Court Action”);

15 WHEREAS on July 13, 2020, the Court issued an Initial Pretrial Scheduling Order  
16 (“Scheduling Order”) in the instant Action, setting forth dates for close of discovery, expert  
17 designation, supplemental expert designations, etc.;

18 WHEREAS, pursuant to the Scheduling Order, the Parties calculate the close of  
19 non-expert discovery to be September 22, 2021;

20 WHEREAS the Parties have agreed to mediate all claims in the instant Action, the  
21 Cross-Claim and the State Court Action on August 24, 2021, before retired Federal District  
22 Court Judge Oliver Wanger, in an attempt to reach a global settlement;

23 WHEREAS the Parties have agreed to postpone serving additional written  
24 discovery, and deposition notices and subpoenas until such time as mediation is complete,  
25 in the interest of avoiding potentially unnecessary attorney’s fees and costs; and

26 WHEREAS the Parties have agreed to a continuance of the Scheduling Order dates  
27 to allow additional time to attempt to reach a global settlement of the instant Action, the  
28 Cross-Claim and the State Court Action.

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**STIPULATION**

The Parties hereby stipulate to amend the Scheduling Order as follows:

Description	Current Date	Proposed Dates
Close of Non-Expert Discovery	September 22, 2021	November 22, 2021
Expert Witness Designation	November 22, 2021	January 21, 2022
Supplemental Expert Designation	December 22, 2021	February 22, 2022
Supplemental Disclosures & Responses	February 23, 2022	April 22, 2022
Dispositive Motion Filing Date	March 22, 2022	May 23, 2022
Notice of Trial Readiness	30 days after ruling on last filed dispositive motion or 120 days from close of discovery	Same

Dated: August 9, 2021

COLEMAN & HOROWITT, LLP

By: /s/ Sherrie M. Flynn  
STEVEN C. CLARK  
SHERRIE M. FLYNN  
Attorneys for Cross-Defendant,  
BCP MECHANICAL, LLC

Dated: August 9, 2021

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

By: /s/ Anthony P. Niccoli  
ANTHONY P. NICCOLI  
Attorneys for ANDERSON BURTON  
CONSTRUCTION, INC. and  
WESTERN SURETY COMPANY

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**ORDER**

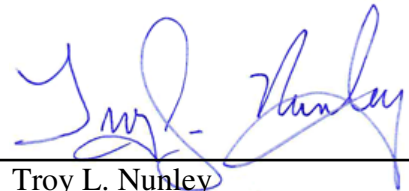
The Parties having stipulated and good cause appearing therefor,

**IT IS SO ORDERED** that the dates in the Initial Pretrial Scheduling Order are amended

as follows:

Description	Amended Dates
Close of Non-Expert Discovery	November 22, 2021
Expert Witness Designation	January 21, 2022
Supplemental Expert Designation	February 22, 2022
Supplemental Disclosures & Responses	April 22, 2022
Dispositive Motion Filing Date	May 23, 2022
Notice of Trial Readiness	30 days after ruling on last filed dispositive motion or 120 days from close of discovery

Dated: August 10, 2021



Troy L. Nunley  
United States District Judge