

1 Galen T. Shimoda (Cal. State Bar No. 226752)  
 Justin P. Rodriguez (Cal. State Bar No. 278275)  
 2 Brittany V. Berzin (Cal. State Bar No. 325121)  
 Renald Konini (Cal. State Bar No. 312080)  
 3 Jessica L. Hart (Cal. State Bar No. 331441)

**Shimoda Law Corp.**  
 4 9401 East Stockton Boulevard, Suite 120  
 Elk Grove, CA 95624  
 Telephone: (916) 525-0716  
 5 Facsimile: (916) 760-3733  
 Email: attorney@shimodalaw.com  
 6 jrodriguez@shimodalaw.com  
 bberzin@shimodalaw.com  
 7 rkonini@shimodalaw.com  
 jhart@shimodalaw.com

8 Attorneys for Plaintiff STEPHON WHITESIDE  
 9 individually and on behalf of similarly situated employees

10 **UNITED STATES DISTRICT COURT**  
 11 **EASTERN DISTRICT OF CALIFORNIA**

13 STEPHON WHITESIDE, individually and on  
 behalf of all other similarly situated  
 14 employees,

15 Plaintiff,

16 vs.

17 SPSP PARTNERS, an Unincorporated Joint  
 18 Venture; SPSP PARTNERS, LLC, a  
 California Limited Liability Company;  
 19 SUKUT CONSTRUCTION, INC., a  
 California Corporation; SUKUT  
 20 CONSTRUCTION, LLC, a California  
 Limited Liability Company;  
 21 GOODFELLOWS BROS. CALIFORNIA,  
 22 LLC., a California Limited Liability  
 Company; PACIFIC STATES  
 23 ENVIRONMENTAL CONTRACTORS,  
 24 INC., a California Corporation; and DOES 1  
 to 100, inclusive,

25 Defendants.  
 26

**Case No.: 2:20-cv-01643-TLN-DMC**

Hon. Troy L. Nunley

**JOINT STIPULATION AND ORDER TO  
 EXTEND TIME FOR INITIAL  
 DISCLOSURE AND REQUIREMENTS  
 OF FRCP, RULE 26(A)(1) AND (F) AND  
 REQUEST TO VACATE THE COURT'S  
 INITIAL PRETRIAL SCHEDULING  
 ORDER PENDING THIS COURT'S  
 ORDER ON PLAINTIFF'S MOTION TO  
 REMAND**

Complaint Filed: Jan. 13, 2020  
 Removed to Fed. Court: Aug. 14, 2020

1 TO THE HONORABLE COURT, ALL PARTIES AND TO THEIR COUNSEL OF  
2 RECORD:

3 Plaintiff STEPHON WHITESIDE (“Plaintiff”) and Defendants SPSG PARTNERS;  
4 SUKUT CONSTRUCTION, INC.; SUKUT CONSTRUCTION, LLC; GOODFELLOW  
5 BROS. CALIFORNIA, LLC; and PACIFIC STATES ENVIRONMENTAL CONTRACTORS,  
6 INC. (“Defendants”) (collectively referred to as the “Parties”) hereby submit this joint  
7 stipulation to extend time for initial disclosure and requirements of FRCP, Rule 26(A)(1) and  
8 (F) and request to vacate the Court’s Initial Pretrial Scheduling Order pending an Order on  
9 Plaintiff’s Motion to Remand, and state as follows:

10 **STIPULATION**

11 1. WHEREAS, Defendants removed this PAGA action from Butte County Superior  
12 Court on August 14, 2020. (Docket Entry (“D.E.”) 1);

13 2. WHEREAS, the Court issued an Initial Pretrial Scheduling Order on August 14,  
14 2020. (D.E. 2);

15 3. WHEREAS, Plaintiff filed a Motion to Remand this action back to state court on  
16 September 11, 2020. (D.E. 5);

17 4. WHEREAS, the Motion to Remand was fully briefed on October 7, 2020. (D.E.  
18 10);

19 5. WHEREAS, on October 12, 2020, during the Rule 26(f) conference, the Parties  
20 agreed after thoughtful consideration that, given the pending Motion to Remand and  
21 considering judicial and party efficiency, it was best to request that the deadlines in the Court’s  
22 Initial Pretrial Scheduling Order be vacated, pending the outcome of Plaintiff’s Motion to  
23 Remand to determine the threshold issue of removal. *See, e.g., Kokkonen v. Guardian Life Ins.*  
24 *Co.*, 511 U.S. 375, 377 (1994); *Marley v. United States*, 567 F.3d 1030, 1032 (9th Cir. 2009)  
25 (“A federal court generally may not rule on the merits of a case without first determining that it  
26 has jurisdiction”); *Sinochem Int’l Co. v. Malay. Int’l Shipping Corp.*, 549 U.S. 422, 430-431  
27 (2007) (“Without jurisdiction the court cannot proceed at all in any cause; it may not assume  
28 jurisdiction for the purpose of deciding the merits of the case”);

2 **JOINT STIPULATION AND ORDER TO EXTEND TIME FOR INITIAL DISCLOSURE AND  
REQUIREMENTS OF FRCP, RULE 26(A)(1) AND (F) AND REQUEST TO VACATE THE COURT’S INITIAL  
PRETRIAL SCHEDULING ORDER PENDING THIS COURT’S ORDER ON PLAINTIFF’S MOTION TO  
REMAND**

1           6.       WHEREAS, the Parties further agree that postponing the initial disclosure  
2 requirements of Rule 26(a)(1) and (f) until Plaintiff's challenge to jurisdiction has been resolved  
3 will facilitate to the mutual goal of the Parties to minimize attorneys' fees;

4           7.       WHEREAS, the Parties agree and propose to confer in accordance with Rule  
5 26(f) within 30 days of the Court's order on Plaintiff's Motion to Remand, and thereafter within  
6 the time specified by Rule 26, make the initial disclosures pursuant to Rule 26(a)(1) and file  
7 their report pursuant to Rule 26(f);

8           8.       This extension is the first extension sought regarding the initial disclosure  
9 requirements of Rule 26(a)(1) and (f);

10          9.       The extension is not sought for any improper purpose or to delay and will not  
11 result in prejudice to either party;

12          10.      If the Court is not inclined to vacate the deadlines in the Order pending a ruling  
13 on the Motion to Remand, the Parties will promptly submit requested scheduling dates and a  
14 full Joint Statement of the case;

15          11.      NOW THEREFORE, the Parties stipulate to confer in accordance with Rule 26(f)  
16 within 30 days of the Court's order on Plaintiff's Motion to Remand, and thereafter within the  
17 time specified by Rule 26, make the initial disclosures pursuant to Rule 26(a)(1) and file their  
18 report pursuant to Rule 26(f) and request that the Court vacate the deadlines set forth in the  
19 Court's Initial Pretrial Scheduling Order until the Court issues an Order on Plaintiff's Motion to  
20 Remand, subject to this Court's approval.

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Dated: October 13, 2020

SHIMODA LAW CORP.

By: /s/ Galen T. Shimoda  
Galen T. Shimoda  
Justin P. Rodriguez  
Brittany V. Berzin  
Renald Konini  
Jessica L. Hart  
Attorneys for Plaintiff

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Dated: October 13, 2020

ATKINSON, ANDELSON, LOYA, RUUD &  
ROMO

By: /s/ Mia A. Lomedico  
Scott K. Dauscher  
Mia A. Lomedico  
Attorneys for Defendants

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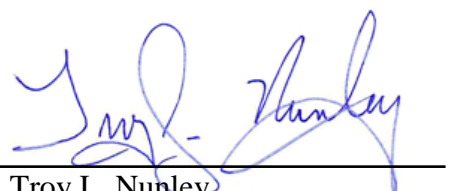
**ORDER**

The COURT, having considered the above stipulation, HEREBY ORDERS that:

1. That the deadlines set forth in this Court’s Initial Pretrial Scheduling Order are vacated;  
and
2. The Parties shall confer in accordance with Rule 26(f) within 30 days of the Court’s order on Plaintiff’s Motion to Remand, and thereafter within the time specified by Rule 26, make the initial disclosures pursuant to Rule 26(a)(1) and file their report pursuant to Rule 26(f).

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: October 14, 2020

  
\_\_\_\_\_  
Troy L. Nunley  
United States District Judge