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12 **UNITED STATES DISTRICT COURT**  
 13 **NORTHERN DISTRICT OF CALIFORNIA**  
 14 **SAN FRANCISCO DIVISION**

15 THEONI SALCEDO, *et al.*, )  
 16 Plaintiffs, )  
 17 vs. )  
 18 NEWPORT NEWS SHIPBUILDING )  
 19 AND DRY DOCK COMPANY, *et al.*, )  
 20 Defendants. )

No. C 08-04381-BZ

21 **JOINT MOTION AND STIPULATION TO**  
 22 **STAY PROCEEDING OR, IN THE**  
 23 **ALTERNATIVE, TO CONTINUE CASE**  
 24 **MANAGEMENT DEADLINE AND**  
 25 **CONFERENCE, AND TO EXTEND TIME;**  
 26 ~~PROPOSED~~ **ORDER TO STAY;**  
 27 ~~PROPOSED ALTERNATIVE~~ **ORDER**  
 28 **TO CONTINUE**

29 Pursuant to Civil L. R. 7-11 and 7-12, the following parties hereby stipulate to, and  
 30 respectfully move the Court for, an Order extending time as set forth in the *Case Management*  
 31 *Scheduling Order* filed September 18, 2008, for the following good cause:

32 On October 20, 2008, Defendants NEWPORT NEWS SHIPBUILDING AND DRY  
 33 DOCK COMPANY, and NORTHROP GRUMMAN SHIP SYSTEMS, INC., filed a Notice to  
 34 Tag Along Action regarding the pending Multidistrict Litigation (“MDL”) in the Eastern District  
 35 of Pennsylvania, seeking among other things, to move Jurisdiction of this matter to that District  
 36 (Document 6.) Defendants NEWPORT NEWS SHIPBUILDING AND DRY DOCK  
 37 COMPANY, and NORTHROP GRUMMAN SHIP SYSTEMS, INC., have sent notice to tag-  
 38 along to the clerk of the Judicial Panel on Multidistrict Litigation (“JPML”) pursuant to 28

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1 U.S.C. § 1407; said notice to the JPML from counsel being necessary to initiate the transfer  
2 process.

3 On July 29, 1991, the JPML entered an order transferring all asbestos personal injury  
4 cases pending in the federal courts to the United States District Court for the Eastern District of  
5 Pennsylvania, for coordinated pretrial proceedings pursuant to 28 U.S.C. § 1407. (*In re Asbestos*  
6 *Products Liability Litigation (no. VI). MDL No. 875.*, 771 F.Supp. 415 (1991)). That order also  
7 applies to “tag-along actions,” or actions involving common questions of fact filed after January  
8 17, 1991. Such actions are to be transferred to the eastern District of Pennsylvania as part of  
9 MDL 875, for coordinated pretrial proceedings.

10 The JPML has held that a district court has the authority to stay pending a transfer order.  
11 *In re Asbestos Products Liability Litigation*, 170 F. Supp. 2d 1348, 1349 n.1 (J.P.M.L. 2001)  
12 (“[T]hose courts concluding that such issues should be addressed by the transferee judge need  
13 not rule on them, and the process of 1407 transfer in MDL-875 can continue without any  
14 unnecessary interruption or delay.”)

15 The parties agree that it is likely that the JPML will transfer this matter to the Eastern  
16 District of Pennsylvania. The Clerk of the JPML has not entered a *Conditional Transfer Order*  
17 pursuant to JPML Rule 12(a) or filed an order to show cause why the action should not be  
18 transferred, pursuant to JPML Rule 13(b). It is likely the dates set forth in the *Case Management*  
19 *Scheduling Order* including the deadlines imposed by Federal Rules of Civil Procedure, Rule  
20 26, will pass before the Clerk of the JPML acts.

21 The parties make this Motion on the grounds that a stay of this action would (a) promote  
22 judicial efficiency, (b) allow consistency in pretrial rulings, and (c) be most convenient to the  
23 parties.

24 For the reasons above, the parties hereby STIPULATE to and respectfully request the  
25 Court VACATE its *Case Management Scheduling Order* and that the Court issue an Order  
26 STAYING this action pending the outcome of the MDL Panel’s decision on the merits of the  
27 transfer.

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1 In the alternative, the parties hereby STIPULATE to and respectfully request that this  
2 Court vacate and continue the dates set forth in the *Case Management Scheduling Order* pending  
3 the outcome of the JPML's decision on the merits of the transfer.

4 Dated: October 23, 2008

BRAYTON❖PURCELL LLP

/s/ David R. Donadio

6 By: \_\_\_\_\_  
David R. Donadio  
7 Attorneys for Plaintiffs

8 Dated: October 23, 2008

HAIGHT BROWN AND BONESTEEL LLP

/s/ Nairi Chakalian

10 By: \_\_\_\_\_  
11 Nairi Chakalian  
12 Daniel J. Kelly  
13 Attorneys for Defendant  
14 Newport News Shipbuilding and  
Dry Dock Company and Defendant  
Northrop Grumman Ship Systems, Inc.

15 [PROPOSED] ORDER TO STAY

17 IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Case*  
18 *Management Scheduling Order* dated September 18, 2008, are hereby VACATED and that this  
19 action is STAYED pending the outcome of the JPML's decision on the merits of the transfer.

20 Dated: \_\_\_\_\_

21 \_\_\_\_\_  
22 Bernard Zimmerman  
United States Magistrate Judge

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1 ~~[PROPOSED ALTERNATIVE]~~ ORDER TO CONTINUE

2 IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Case*  
3 *Management Scheduling Order* dated September 18, 2008, are hereby VACATED.

4 IT IS FURTHER ORDERED that the following case management deadlines are  
5 continued as follows:

6 1. The Case Management Conference is [set for a date after January 20, 2009 to  
7 wit:] JANUARY 26, 2009; at 4:00 p.m., Courtroom "G", 15th Floor, 450 Golden  
8 Gate Avenue, San Francisco, California.

9 2. Last day to meet and confer re initial disclosures, early settlement, ADR process  
10 selection, and discovery plan is 21 days before the Case Management Conference in paragraph 1,  
11 above.

12 3. Last day to file Joint ADR Certification with Stipulation to ADR process or  
13 Notice of Need for ADR Phone Conference is 21 days before the Case Management Conference  
14 in paragraph 1, above.

15 4. Last day to complete initial disclosures or state objection to Rule 26(f) Report,  
16 file/serve Case Management Statement and file/serve Rule 26(f) Report is 5 court days before  
17 the Case Management Conference in paragraph 1, above.

18 Dated: OCTOBER 27, 2008

19   
20 Bernard Zimmerman  
21 United States Magistrate Judge  
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