

1 ALAN R. BRAYTON, ESQ., S.B. #73685
 2 DAVID R. DONADIO, ESQ., S.B. #154436
 3 FRANK J. ANDERS, ESQ., S.B. #227208
 4 BRAYTON ♦ PURCELL LLP
 5 Attorneys at Law
 6 222 Rush Landing Road
 7 P.O. Box 6169
 8 Novato, California 94948-6169
 9 (415) 898-1555
 10 (415) 898-1247 (Fax No.)

11 Attorneys for Plaintiffs

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

15 JOSEPH MURRAY, *et al.*,
 16 Plaintiffs,

17 vs.

18 GENERAL ELECTRIC COMPANY,
 19 *et al.*,
 20 Defendants.

No. C08-04461-MMC

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

1 Pursuant to Civil L. R. 7-11 and 7-12, the following parties hereby stipulate to, and
 2 respectfully move the Court for, an Order extending time as set forth in the *Case Management*
 3 *Scheduling Order* filed September 26, 2008 (Document 3), and the *Case Management*
 4 *Conference Order* filed November 13, 2008 (Document 29), for the following good cause:

5 The following defendants have each filed Notices to Tag Along Action regarding the
 6 pending Multidistrict Litigation (“MDL”) in the Eastern District of Pennsylvania, seeking among
 7 other things, to move Jurisdiction of this matter to that District: GENERAL ELECTRIC
 8 COMPANY (November 3, 2008, Document 7); VOUGHT AIRCRAFT INDUSTRIES, INC.
 9 (November 3, 2008, Document 11); TODD SHIPYARDS CORPORATION (November 4, 2008,
 10 Document 17); NEWPORT NEWS SHIPBUILDING AND DRY DOCK COMPANY

BRAYTON ♦ PURCELL LLP
 ATTORNEYS AT LAW
 222 RUSH LANDING ROAD
 P O BOX 6169
 NOVATO, CALIFORNIA 94948-6169
 (415) 898-1555

1 (November 7, 2008, Document 22); and, WARREN PUMPS, LLC (November 10, 2008,
2 Document 27.)

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 its Case Management Conference*
26 *Order*, and that the Court issue an Order STAYING this action pending the outcome of the MDL
27 Panel’s decision on the merits of the transfer.

28 ////

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* and in
3 the *Case Management Conference Order* pending the outcome of the JPML's decision on the
4 merits of the transfer.

5 Dated: November 26, 2008

BRAYTON ♦ PURCELL LLP

/s/ David R. Donadio

7 By: _____

8 David R. Donadio
Attorneys for Plaintiffs

9 Dated: December 3, 2008

SEDGWICK, DETERT, MORAN & ARNOLD,
LLP

/s/ Derek S. Johnson

11 By: _____

12 Derek S. Johnson
13 Attorneys for Defendant
General Electric Company

14 Dated: November 26, 2008

HAIGHT BROWN AND BONESTEEL LLP

/s/ Nairi Chakalian

16 By: _____

17 Nairi Chakalian
Attorneys for Defendant
18 Newport News Shipbuilding and
Dry Dock Company

19 Dated: December 9, 2008

CARROLL, BURDICK, & MCDONOUGH LLP

/Gregory David Meronek

21 By: _____

22 Gregory David Meronek
Attorneys for Defendant
23 Warren Pumps, LLC

24 Dated: November 26, 2008

YARON & ASSOCIATES

/s/ D. David Steele

26 By: _____

27 D. David Steele
Attorneys for Todd Shipyards Corporation

28 ///

1 Dated: November 26, 2008

MENDES & MOUNT

2 /s/ Adam Ashley Grable

3 By: _____

4 Adam Ashley Grable
5 Attorneys for Vought Aircraft
6 Industries Inc.

6 Dated: December 8, 2008

JACKSON & WALLACE

7 /s/ Dan O’Shea

8 By: _____

9 Dan O’Shea
10 Attorneys for Defendant
11 General Dynamics Corporation

11 Dated: December 4, 2008

CHARTER DAVIS LLP

12 /s/ Mia Rosenfeld

13 By: _____

14 Mia Rosenfeld
15 Attorneys for Defendant
16 Viad Corporation

16 ~~[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 26, 2008 and the *Case Management*
19 ~~Conference Order~~ dated November 13, 2008, are hereby VACATED and that this action is
20 ~~STAYED~~ pending the outcome of the JPML’s decision on the merits of the transfer.

21 ~~Dated:~~ _____

22 _____
23 Maxine M. Chesney
24 United States District Judge

26 ///

27 ///

28 ///

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 26, 2008 and the *Case Management*
4 *Conference Order* dated November 13, 2008, are hereby VACATED.

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

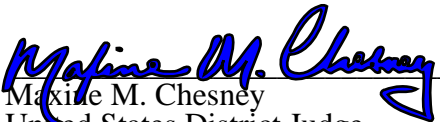
7 continued to
8 1. The Case Management Conference is ~~set for a date after March 20, 2009 to~~
9 ~~wit:]~~ April 10, 2009 ~~, 2008~~, at 10:30 a.m. ~~_____m~~, Courtroom 7, 19th Floor,
10 450 Golden Gate Avenue, San Francisco, California.

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

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

17 4. Last day to complete initial disclosures or state objection to Rule 26(f) Report,
18 file/serve Case Management Statement and file/serve Rule 26(f) Report is ~~5 court days before~~
19 ~~the Case Management Conference in paragraph 1, above.~~
20 April 3, 2009

21 Dated: December 12, 2008

22
23
24
25
26
27
28

Maxine M. Chesney
United States District Judge