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 6 Sortwell, Inc. dba  
 Amnav Maritime Services  
 7

8 **UNITED STATES DISTRICT COURT**  
 9 **NORTHERN DISTRICT OF CALIFORNIA**

10 In the Matter of the Complaint of ) Case No.: CV-08-5167 VRW  
 )  
 11 Sortwell, Inc. dba Amnav Maritime Services, ) **JOINT REQUEST FOR**  
 ) **CONTINUANCE OF INITIAL CASE**  
 12 ) **MANAGEMENT CONFERENCE**  
 Plaintiff, ) **AND ATTENDANT DEADLINES**  
 ) **~~PROPOSED~~ ORDER**  
 13 For Exoneration from or Limitation of )  
 Liability. )  
 14 ) CMC Date: November 12, 2009  
 ) Trial Date: None Set

15 **I. INTRODUCTION**

16 Good cause exists for continuing the Initial Case Management Conference  
 17 (“ICMC”), currently scheduled for November 12, 2009, as plaintiff Sortwell, Inc. dba  
 18 Amnav Maritime Services (“Sortwell”) *has made a \$2,000,000.00 (Two Million Dollar)*  
 19 *without prejudice advance payment on settlement to claimant Tesoro Refining &*  
 20 *Marketing Co.* (“Tesoro”). See Declaration of Christopher S. Kieliger (“Kieliger Decl.”) at  
 21 ¶3. Sortwell and Tesoro are currently working towards a full and final settlement. Kieliger  
 22 Decl. at ¶ 4. As evidenced by Sortwell’s \$2,000,000.00 payment, the parties are actively  
 23 working toward a final out of court settlement of this matter. Kieliger Decl. at ¶ 5. The  
 24 parties seek a 90 day continuance continuance of the ICMC to allow the parties to fully  
 25 settle this matter.

26 **II. PROCEDURAL HISTORY**

27 On November 14, 2008, Sortwell, filed a complaint in this Court as owners of the  
 28 tug INDEPENDENCE, Official No. 1196784 (the “Tug”) seeking exoneration from or

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1 limitation of liability as provided for 46 U.S.C. §30501 *et.seq.*, for all losses, injuries,  
2 damages, and deaths resulting or arising from the Tug’s allision with the Avon Wharf (“the  
3 wharf”) on or about May 14, 2008.

4 This Court, in its December 22, 2008 Order Directing Issuance Of Monition and  
5 Injunction, issued an order that “all persons and entities claiming losses, damages, injuries,  
6 or death resulting or arising from the subject incident of the Tug admonishing them to  
7 appear and file their respective claims and answers with the Clerk of this Court on or before  
8 March 20, 2009.” On January 28, 2009, plaintiff moved for, and the Court granted an order  
9 continuing the ICMC until May 14, 2009, because no one responded to the Monition nor  
10 would they be required to prior to the ICMC’s originally scheduled date of February 19,  
11 2009. On February 23, 2009, Tesoro filed its answer and claim alleging that it is the owner  
12 of the wharf that was allegedly damaged by the Tug and claiming \$7,879,240.00 in  
13 damages.

14 On April 27, 2009, this Court granted a joint request by the parties to continue the  
15 ICMC from May 14, 2009 to August 13, 2009. An Order Entering Default of All Non-  
16 Appearing Claimants was issued on May 8, 2009. On July 20, 2009, this Court granted a  
17 continuance of the April 13, 2009 ICMC to November 12, 2009 to allow the parties to  
18 finalize a without prejudice advance payment on settlement agreement.

19 **III. GOOD CAUSE EXISTS FOR CONTINUANCE OF THE ICMC**

20 As evidenced by *Sortwell’s payment of a \$2,000,000.00* without prejudice advance  
21 payment on settlement, the parties are diligently working toward a out of court settlement  
22 this matter. Kieliger Decl. at ¶¶ 3-5. Tesoro has provided Sortwell with boxes of  
23 documents which it alleges support its claim for damages and Sortwell has retained a  
24 number of experts to review those documents. Kieliger Decl. at ¶6. Sortwell’s counsel and  
25 economic loss expert met with Tesoro at its San Antonio offices to discuss its claim.  
26 Kieliger Decl. at ¶7. In addition, the parties and experts participated in an all day meeting  
27 at the Tesoro facility on May 21, 2009, to discuss Tesoro’s claims relating to the  
28 construction repair costs. Kieliger Decl. at ¶8. At that meeting Sortwell requested, and

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1 Tesoro agreed to provide additional documentation in support of its claim. Kieliger Decl. at  
2 ¶9. Tesoro has now provided a number of the documents requested. Kieliger Decl. at ¶10.

3 Continuation of the ICMC for 90 days serves the interest of judicial economy as it  
4 allows the parties to finalize a full settlement after Sortwell's without prejudice advance  
5 payment on settlement of \$2,000,000, review the outstanding documents requested at the  
6 May 21, 2009 meeting, informally address questions and concerns relating to the  
7 outstanding amount of damages and meet on at least one more occasion to discuss final  
8 resolution of this matter. Kieliger Decl. at ¶11. That final settlement could be reached as  
9 early as January 2010. Kieliger Decl. at ¶12. Plaintiff therefore requests that the Initial  
10 Case Management Conference currently scheduled for November 12, 2009, be continued  
11 until February 11, 2010, along with the attendant deadlines.

12  
13 Dated: October 21, 2009

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Attorneys for Plaintiff,  
SORTWELL, INC DBA AMNAV  
MARITIME SERVICES

14  
15  
16  
17 By: \_\_\_\_\_ /s/  
Christopher S. Kieliger

18 Dated: October 21, 2009

DAIGLE, FISSE & KESSENICH  
Attorneys *pro hac vice* for Claimant,  
TESORO REFINING AND MARKETING  
COMPANY

19  
20  
21  
22 By: \_\_\_\_\_ /s/  
John Frederick Kessenich

23 ~~PROPOSED~~ ORDER

24 Pursuant to the parties stipulated request above, and good cause having been shown,  
25 the Initial Case Management Conference scheduled for November 12, 2009 is continued  
26 until February 11, 2010.

27 The parties ADR Certification, Stipulation to ADR Process and meet and confer  
28 pursuant to FRCP 26(f) to be completed by January 21, 2010.

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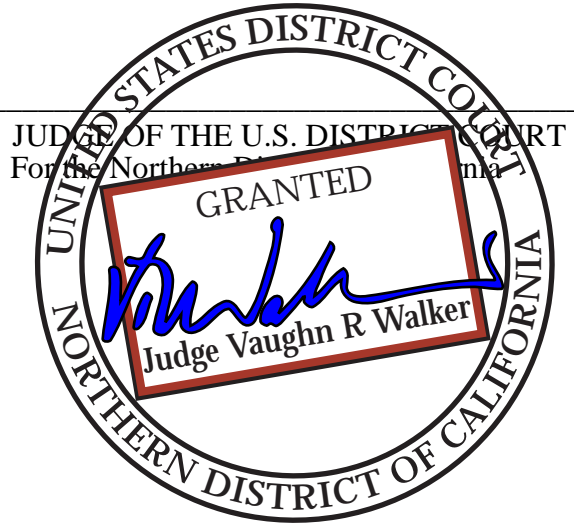
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Last day to file Rule 26(f) Report – February 4, 2010.

IT IS SO ORDERED

Dated: October 21, 2009



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