

1 John C. Babin, CSB#96305  
 E-Mail [babinlaw@yahoo.com](mailto:babinlaw@yahoo.com)  
 2 BABINLAW, P.C.  
 517 Chetco Avenue  
 3 P.O. Box 1600  
 Brookings, OR 97415  
 4 Tel: 541-469-5331  
 Fax: 541-469-9865  
 5

6 Attorney(s) for Plaintiff John A. Metzger

7  
 8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10

11 JOHN A. METZGER

CASE NO: C 09-00791 EMC MED

12 Plaintiff,

13 vs.

14 EVERGREEN PULP INC.,  
and Does 1-10,

**STIPULATION AND ORDER OPTING  
 OUT OF MEDIATION AND  
 SUBSTITUTING A MANDATORY  
 SETTLEMENT CONFERENCE**

15 Defendant.  
16

17 The parties to this action have previously filed the ADR Certification with this court pursuant  
 18 to ADR L.R. 3-5(b). On or about July 27, 3009 the parties to this action filed their Joint Case  
 19 Management Statement and Proposed Order which provided in paragraph number 9 that the parties  
 20 were to consider whether to utilize court mediation with the Magistrate Judge in Eureka, California.

21 **INTRODUCTORY STATEMENT**

22 On August 4, 2009 the parties appeared for their Case Management Conference before  
 23 Magistrate Judge Wayne D. Brazil. At the case management conference the parties further stipulated  
 24 and agreed that they would participate in a settlement conference with Magistrate Judge Nandor J.  
 25 Vadas in Eureka, California at a date to be determined in October or November of 2009. The  
 26 settlement conference was to be in lieu of mediation or other alternate dispute resolution  
 27 proceedings.  
 28

**STIPULATION AND ORDER OPTING OUT OF MEDIATION AND SUBSTITUTING  
 A MANDATORY SETTLEMENT CONFERENCE**

1           Thereafter a order was entered by Magistrate Judge Wayne D. Brazil referring the case to  
2 Magistrate Judge Nandor J. Vadas for a settlement conference subject to Judge Vadas's availability.

3           On August 12, 2009, Magistrate Judge Nandor J. Vadas issued a notice of settlement  
4 conference and settlement conference order setting a settlement conference in the above matter for  
5 November 4, 2009 at 10:00 a.m. in courtroom 205 A, second floor, Federal Building, 504 H Street,  
6 in Eureka, California.

7           On August 24, 2009, ADR Case Administrator Richard W. Wicking, by Claudia M.  
8 Forehand, issued a Notice of Appointment of Mediator assigning Judith L. Teichman as Mediator  
9 in this matter. A Case Management Conference has been set for September 16, 2009 at 1:00 p.m.

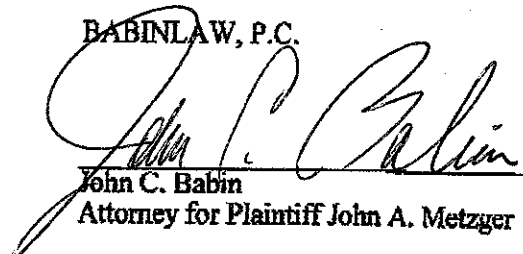
10           By reason of the above, the parties hereto do hereby stipulate and request an entry of an Order  
11 consistent with the following stipulation:

- 12 1.    The parties do hereby select and opt out of the mediation provisions for alternative dispute
- 13        resolution.
- 14 2.    The parties agree that the appointment of Judith L. Teichman as mediator in this matter and
- 15        the case management conference scheduled for September 16, 2009 should be vacated.
- 16 3.    In lieu thereof, the parties agree and stipulate to participate in a mandatory settlement
- 17        conference with Magistrate Judge Nandor J. Vadas pursuant to Notice of Settlement
- 18        Conference and Settlement Conference Order dated August 12, 2009.

19 **IT IS SO STIPULATED:**

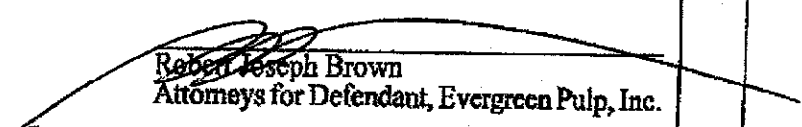
20 Dated this 8<sup>th</sup> day of September, 2009.

BABINLAW, P.C.

  
John C. Babin  
Attorney for Plaintiff John A. Metzger

24 Dated this 8 day of September, 2009.

LAW OFFICES OF DENNIS P. ISAAC

  
Robert Joseph Brown  
Attorneys for Defendant, Evergreen Pulp, Inc.

28 **STIPULATION AND ORDER OPTING OUT OF MEDIATION AND SUBSTITUTING  
A MANDATORY SETTLEMENT CONFERENCE**

1 **ORDER VACATING APPOINTMENT OF MEDIATOR AND CASE MANAGEMENT**  
 2 **CONFERENCE AND SUBSTITUTING A MANDATORY SETTLEMENT**  
 3 **FOR MEDIATION**  
 4

5 Based on the stipulation of the parties hereto, Stipulation Opting Out of Mediation and  
 6 Substituting a Mandatory Settlement Conference, it is hereby ordered as follows:

- 7 1. That the parties are allowed to opt out of the mediation program provided by ADR L.R. 6.  
 8 2. In lieu of the mediation program the parties will participate in a mandatory settlement  
 9 conference pursuant to a Notice of Settlement Conference and Settlement Conference Order  
 10 previously issued herein dated August 12, 2009.  
 11 3. The appointment of Judith L. Teichman as mediator is vacated and the Case Management  
 12 Conference scheduled for September 16, 2009 at 1:30 in Courtroom C, 15<sup>th</sup> Floor, U.S.  
 13 District Court, 240 Golden Gate Avenue, in San Francisco, California is also hereby vacated.  
 14 4. A new Case Management Conference, to be held after the Settlement Conference of  
 15 November 4, 2009, is scheduled for 11/17, 2009 at 1:30 a/p. m.  
 16 in Courtroom C, located at 450 Golden Gate Ave., 15th Fl.  
 17 in San Francisco, California. A joint cmc statement shall be filed by 11/10/09.

18  
 19  
 20 Dated: 9/14/09

