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15 Attorney for Defendant
 16 CAPITOL CITY TILE AND MARBLE INC.

17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA

19 TRUSTEES OF THE BRICKLAYERS LOCAL) CASE NO. CV 10-5160 MEJ
 20 NO. 3 PENSION TRUST; TRUSTEES OF THE)
 21 LOCAL NO. 7 PENSION TRUST; TRUSTEES)
 22 OF THE BRICKLAYERS LOCAL NO. 3)
 23 HEALTH AND WELFARE TRUST; TRUSTEES) PLAINTIFFS' AND DEFENDANT
 24 OF THE BRICKLAYERS AND ALLIED) CAPITOL CITY TILE & MARBLE
 25 CRAFTS LOCAL NO. 3 APPRENTICE) INC.'S STIPULATION EXTENDING
 26 TRAINING TRUST; INTERNATIONAL UNION) DATE FOR TRIAL, DISCOVERY
 27 OF BRICKLAYERS AND ALLIED) CUT-OFF AND ALL OTHER RELATED
 28 CRAFTSMEN, AFL-CIO, LOCAL UNION NO. 3,) DATES
 on behalf of itself and as agent for its members;)
 TRUSTEES OF THE INTERNATIONAL UNION)
 OF BRICKLAYERS AND ALLIED)
 CRAFTSMEN PENSION FUND; TRUSTEES OF)
 THE NORTHERN CALIFORNIA TILE)
 INDUSTRY PENSION TRUST; TRUSTEES OF)
 THE NORTHERN CALIFORNIA TILE)
 INDUSTRY HEALTH AND WELFARE TRUST)
 FUND; TRUSTEES OF THE NORTHERN)
 CALIFORNIA TILE INDUSTRY)
 APPRENTICESHIP AND TRAINING TRUST)
 FUND; TILE INDUSTRY PROMOTION FUND)
 OF NORTHERN CALIFORNIA, INC., a not-for-)
 profit California corporation; and TILE)
 EMPLOYERS CONTRACT ADMINISTRATION)
 FUND,)
 Plaintiffs,)

1 vs.)
2)
3)
4)
5)
6)

CAPITOL CITY TILE AND MARBLE INC., a)
California corporation; INTERNATIONAL)
FIDELITY INSURANCE COMPANY, a New)
Jersey corporation; AMERICAN CONTRACTORS)
INDEMNITY COMPANY, a California corporation,))
Defendants.)

7 WHEREAS plaintiffs and defendant CAPITOL CITY TILE AND MARBLE INC., have
8 been negotiating a settlement in this matter for several months;

9 WHEREAS plaintiffs and defendant CAPITOL CITY TILE AND MARBLE INC.,
10 participated in a Settlement Conference before Magistrate Judge Nandor J. Vadas on October 19,
11 2011;

12 WHEREAS plaintiffs and defendant CAPITOL CITY TILE AND MARBLE INC., have
13 postponed discovery while negotiating a settlement;

14 WHEREAS plaintiffs and defendant CAPITOL CITY TILE AND MARBLE INC.,
15 believe they are close to reaching a settlement in this matter;

16 WHEREAS plaintiffs and defendant CAPITOL CITY TILE AND MARBLE INC., are
17 the only parties that have appeared in this matter;

18 WHEREAS plaintiffs and defendant CAPITOL CITY TILE AND MARBLE INC.,
19 hereby stipulate to extend the discovery cut-off date, the date for trial and all other dates in the
20 Court's April 26, 2011 Case Management Order for a period of One Hundred Twenty (120) days;

21 NOW THEREFORE, the parties hereto request that the Court at this time enter this order
22 extending discovery cut-off date, the date for trial and all other dates in the Court's April 26,
23 2011 Case Management Order for a period of One Hundred Twenty (120) days.

24 SO STIPULATED

25 VEDA COUNSEL

26
27 Dated: November 5, 2011

By: /s/ Gaurav Kalra
Gaurav Kalra
Attorney for Defendant Capitol City Tile & Marble Inc.

KATZENBACH AND KHTIKIAN

Dated: November 5, 2011

By: /s/ Conor Mack
Conor D. Mack
Attorneys for Plaintiffs

Attestation Of Concurrence

I, Conor Mack, declare that Gaurav Kalra, attorney for Defendant Capitol City Tile & Marble Inc., has signed the Stipulation set forth above and that I have in my possession his signatures on this document.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 5th day of November 2011, in San Francisco, California.

/s/ Conor Mack
Conor D. Mack

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2 **~~[proposed]~~ ORDER**

3 Disclosure of Expert Witnesses:

4 The deadline for serving the name, address, qualifications, resume, and a written report
5 which complies with Federal Rule of Civil Procedure 26(a)(2)(B) of any expert witness is
6 extended by 120 days, from 11/11/2011 to 3/11/2012.

7 Rebuttal Expert Witnesses:

8 The deadline for serving the name, address, qualifications, resume, and a written report
9 which complies with Federal Rule of Civil Procedure 26(a)(2)(B) of any rebuttal expert witness
10 is extended by 120 days, from 11/21/2011 to 3/21/2012.

11 Close of Discovery:

12 The deadline for completing all discovery, including depositions of expert witnesses, is
13 extended by 120 days, from 12/6/2011 to 4/4/2012.

14 Pursuant to Federal Rule of Civil Procedure 16(b) and Civil Local Rule 26-2, a discovery
15 request or stipulation that calls for responses or depositions after the discovery cut-off date is
16 not enforceable except by order of the Court and upon a showing of good cause.

17 Pursuant to Civil Local Rule 26-2, no motions to compel discovery (including joint
18 letters
19 and requests for telephonic conferences under Magistrate Judge James' discovery standing
20 order) may be filed later than 10 days after the discovery cut-off date.

21 Dispositive Motions:

22 The deadline for filing, serving, and noticing all dispositive motions is extended by 120
23 days, from 1/5/2012 to 5/5/2012. **The parties shall file a joint statement of undisputed facts
24 pursuant to Civil Local Rule 56-2(b) when filing a motion for summary judgment.**

25 The Court shall hear dispositive motions on 6/7/2012 at 10:00 a.m. in Courtroom B, 15th
26 Floor of the Federal Building, located at 450 Golden Gate Avenue, San Francisco, California.

27 Exchange and filing of Trial Papers:

28 1. By 8/9/2012, lead counsel who will try the case shall meet and confer with respect to
the preparation and content of the joint pretrial conference statement and shall exchange (but not

1 file or lodge) the papers described in paragraph 2 below.

2 2. By 8/24/2012, counsel shall file the papers described in Federal Rule of Civil
3 Procedure 26(a)(3) and a joint pretrial conference statement including the following:

4 (A) Substance of the Action: A brief description of the substance of claims and
5 defenses which remain to be decided.

6 (B) Relief Prayed: A detailed statement of all the relief claimed, particularly
7 itemizing all elements of damages claimed as well as witnesses, documents or
8 other evidentiary material to be presented concerning the amount of damages.

9 (C) Undisputed Facts: A plain and concise statement of all relevant facts not
10 reasonably disputable, as well as which facts parties will stipulate for
11 incorporation into the trial record without the necessity of supporting testimony or
12 exhibits.

13 (D) Disputed Factual Issues: A plain and concise statement of all disputed factual
14 issues which remain to be decided.

15 (E) Agreed Statement: A statement assessing whether all or part of the action may
16 be presented upon an agreed statement of facts.

17 (F) Stipulations: A statement of stipulations requested or proposed for pretrial or
18 trial purposes.

19 (G) Witness list: A list of all witnesses to be called for trial. The parties shall
20 submit a page-length detailed summary of the substance of the proposed
21 testimony of each witness, which shall also specify to which disputed fact the
22 testimony relates, and an estimate of the time required for direct and cross
23 examination of each witness.

24 (H) Exhibit list: A list of all exhibits to be offered at trial. The list shall state each
25 proposed exhibit by its number or alphabetical letter, description and sponsoring
26 witness. All documents shall be authenticated prior to trial.

27 (I) No party shall be permitted to offer any witness or exhibit that is not disclosed
28 in its witness or exhibit list, except with leave of the Court for good cause shown.

1 (J) Estimated Time of Trial: An estimate of the number of hours needed for the
2 presentation of each party's case.

3 (K) Settlement: A statement summarizing the status of the parties' settlement
4 negotiations.

5 3. Motions *in limine*: Counsel are directed to meet and confer to resolve any evidentiary
6 disputes prior to filing motions *in limine*.

7 (A) Any motions *in limine* shall be filed by 8/23/2012.

8 (B) Any Opposition to motions *in limine* shall be filed by 8/30/2012.

9 (C) These matters will be deemed submitted on the papers without oral argument,
10 unless the Court orders otherwise.

11 4. Trial Briefs: Counsel shall file trial briefs setting forth the applicable legal standard,
12 pursuant to Ninth Circuit authority, for all significant disputed issues of law, including
13 foreseeable procedural and evidentiary issues, by 9/7/2012.

14 5. Proposed Findings of Fact and Conclusions of Law:

15 (A) Counsel shall file **joint** proposed findings of facts and conclusions of law by
16 9/7/2012. Counsel shall deliver to the Courtroom Deputy a copy of their
17 statements on portable storage medium in WordPerfect format. The label shall
18 include the name of the parties, the case number and be entitled "Joint Proposed
19 Findings of Facts and Conclusions of Law."

20 (B) Counsel shall file their disputed findings of fact and conclusions of law by
21 9/7/2012. Counsel shall deliver to the Courtroom Deputy a copy of their
22 statements on portable storage medium in WordPerfect format. The label shall
23 include the name of the parties, the case number and be entitled "Disputed
24 Proposed Findings of Facts and Conclusions of Law."

25 Pretrial Conference:

26 On 9/6/2012 at 10:00 a.m., the Court shall hold a pretrial conference in Courtroom B,
27 15th Floor, 450 Golden Gate Avenue, San Francisco, California. Lead counsel who will try the
28 case **must** attend the pretrial conference. The purpose of the pretrial conference is for the

1 Court to rule on any issues raised in the pretrial conference statement, motions *in limine*, and
2 to discuss the trial of the case.

3 Final Pretrial Conference:

4 On 10/4/2012 at 10:00 a.m. in Courtroom B, the Court shall hold a final pretrial
5 conference to address any outstanding trial issues.

6 Trial Date:

7 1. The trial shall commence on 10/9/2012 (Trial schedule: Tuesday through Friday, 9:30
8 a.m. to 3:00 p.m.). The trial shall last 3 days.

9 2. For any documents, including the deposition of a witness testifying at trial, which will
10 be shown to a witness but not admitted into evidence, counsel shall bring the original plus three
11 copies of the documents. The original document will be handed to the Court during
12 testimony and the copies will be given to the witness during the examination and to opposing
13 counsel.

14 3. (A) Counsel shall maintain their own exhibits during trial. Exhibits are to be
15 premarked with exhibit tags attached to the upper lefthand corner. If a photo or
16 chart is being used as an exhibit, the exhibit tag should be placed on the back side
17 of the exhibit. The Court will only admit premarked exhibits which were listed on
18 the earlier filed exhibit list.

19 (B) Plaintiff shall mark the exhibits numerically; Defendant shall mark the
20 exhibits alphabetically. The exhibit markers shall each contain the name and
21 number of the case, the number or alphabetical letter of the exhibit, and blank
22 spaces to accommodate the date admitted and the Deputy Clerk's initials.

23 4. On the day of trial, counsel shall bring the original premarked exhibits, a copy of the
24 premarked exhibits for opposing counsel, and two binders which contain a copy of each
25 side's premarked exhibits for the Court. The premarked exhibit binders are to be designated
26 with label dividers and given to the Courtroom Deputy on the morning of the trial.

27 Sanctions:

28 Failure to comply with this Order is cause for sanctions under Federal Rule of Civil

1 Procedure 16(f).

2 Transcripts and Recording Devices:

3 1. Counsel requesting a daily transcript shall contact Debra Campbell, Supervisor Court
4 Reporting Services, at (415) 522-2079, at least ten days in advance of the trial date.

5 2. If any video or tape recording equipment or demonstrative devices will be used, a
6 signed order will need to be obtained at least ten days in advance of the trial date for the items to
7 clear security.

8 Questions:

9 All questions regarding these instructions should be directed to Brenda Tolbert,
10 Courtroom Deputy Clerk to Judge James, at (415) 522-4708.

11 **IT IS SO ORDERED.**

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13 Dated: November 7, 2011

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16 Hon. Maria Elena James
17 Chief United States Magistrate Judge
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