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18 UNITED STATES DISTRICT COURT
 19 NORTHERN DISTRICT OF CALIFORNIA
 20 SAN FRANCISCO DIVISION
 21

22 ABF FREIGHT SYSTEMS, INC.,)
)
 23 Plaintiff,)
)
 24 v.)
)
 25 UNITED STATES OF AMERICA, WEST)
 BAY BUILDERS,)
 26 Defendants.)
 27 _____)

No. C-10-5188 SI

**STIPULATION AND [PROPOSED] ORDER
 REGARDING STAYING CASE PENDING
 RESOLUTION OF ADMINISTRATIVE
 CLAIM**

28 STIPULATION AND [PROPOSED] ORDER
 TO STAY CASE
 C 10-5188 SI

1 The parties, by and through their counsel of record, hereby stipulate and agree as follows:

2 1. Plaintiff ABF Freight Systems, Inc. filed the above-captioned Federal Tort Claims Act
3 (“FTCA”) action on or about November 16, 2010. Plaintiff claims it paid workers’ compensation
4 benefits to and on behalf of its employee, Thomas Mills, for injuries allegedly arising from a
5 December 12, 2008 accident.

6 2. On or about December 9, 2010, Mr. Mills submitted an administrative claim, Standard
7 Form 95, with the General Services Administration (“GSA”) and Federal Protective Service, a
8 division of the Department of Homeland Security (“DHS”) for damages allegedly arising from the
9 December 12, 2008 accident. Mr. Mills’s administrative claim was denied on March 23, 2011.
10 By statute, if Mr. Mills chooses to file suit in district court, he must do so within 6 months of the
11 denial of his administrative claim. Accordingly, Mr. Mills must file suit in district court on or
12 before September 23, 2011.

13 3. On December 9, 2010, counsel for Mr. Mills, Dawn L. Hassell of the Hassell Law Group,
14 P.C., filed a lawsuit in San Francisco Superior Court captioned *Thomas Mills v. West Bay*
15 *Builders, Inc. et al.*, Case No. GCG-505005. The suit is against Defendant West Bay Builders,
16 Inc. and Security Consultants Group, Inc., who is not a party to the above-captioned matter. The
17 state lawsuit seeks damages for personal injuries resulting from the December 8, 2008 accident.

18 4. If Mr. Mills files suit in district court regarding the December 12, 2008 accident, his
19 complaint would involve substantially the same parties, allegations, and events as the above-
20 captioned action. Accordingly, the parties believe a stay until after the September 23, 2011
21 deadline for Mr. Mills to file suit in district court would promote economy, and avoid unnecessary
22 duplication of labor or expense.

23 5. While the decision on the administrative claim filed by Mr. Mills was pending, the parties
24 to this action entered a stipulation to stay the matter until August 5, 2011. The Court signed the
25 order granting the stay on March 14, 2011.

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28 STIPULATION AND [PROPOSED] ORDER
TO STAY CASE
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1 6. For the above stated reasons, the parties stipulate to stay the above-captioned case until
2 October 15, 2011, by which time the parties will know whether Mr. Mills has filed suit in district
3 court.

4
5 DATED: July 13, 2011

MELINDA L. HAAG
United States Attorney

6
7 /s/
8 JUAN D. WALKER
Assistant United States Attorney
Attorneys for Federal Defendant

9 DATED: July 13, 2011

LEWIS BRISBOIS BISGAARD & Mills LLP

10
11 /s/
12 MICHAEL S. ROMEO
Attorneys for Defendant WEST BAY

13
14 DATED: July 13, 2011

LAW OFFICE OF CLARK W. PATTEN


15
16 /s/
17 CLARK W. PATTEN
Attorneys for Plaintiff ABF

18
19 **[PROPOSED] ORDER**

20 Pursuant to stipulation by the parties, the above-captioned case is stayed until October 1, 2011.
21 The Initial Case Management Conference is continued from August 5, 2011 to October ~~21~~²⁸, 2011 at
22 2:30pm, and the parties will file a Joint Case Management Conference Statement one week prior
23 to the Initial Case Management Conference.

24 IT IS SO ORDERED.

25 Dated: 7/14/11


SUSAN ILSTON
United States District Judge

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27
28 STIPULATION AND [PROPOSED] ORDER
TO STAY CASE
C 10-5188 SI

ATTESTATION OF CONCURRENCE IN FILING

ABF Freight Systems, Inc. v. United States of America, et al., No. C 10-5188 SI

In accord with the Northern District of California's General Order No. 45, Section X(B), I attest that concurrence in the filing of this document has been obtained from the other signatories listed on this document.

Dated: July 14, 2011

_____/s/
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