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6 Attorneys for Plaintiffs, L&M VENTURES, LLC,
STUART LERNER; BLUE CHIP III, LLC; BLUE CHIP
7 II, LLC; and BLUE CHIP RECYCLING, LLC

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 L&M VENTURES, LLC, a California
Limited Liability Company; STUART
11 LERNER, an individual; BLUE CHIP
III, LLC, a Mississippi Limited
12 Liability Company; BLUE CHIP II,
LLC, a Mississippi Limited Liability
13 Company; and BLUE CHIP
RECYCLING, LLC, a California
14 Limited Liability Company,

15 Plaintiffs,

16 v.

17 TRAVELERS CASUALTY &
SURETY COMPANY OF AMERICA,
18 a Connecticut Corporation;
LIPSCOMB & PITTS INSURANCE
19 AGENCY, LLC, a Delaware Limited
Liability Company; and DOES 1 to
20 500, inclusive,

21 Defendants.

CASE NO. 3:10-cv-05764-SI

**STIPULATION RE FURTHER
AMENDMENT OF SECOND
PRETRIAL PREPARATION
ORDER AND CONTINUANCE OF
TRIAL**

Assigned to: Hon. Susan Illston

Complaint Filed: December 17, 2010
Trial Date: August 29, 2016

23 Plaintiffs, L&M VENTURES, LLC, a California Limited Liability Company
24 ("L&M"), STUART LERNER, an individual ("Lerner"); BLUE CHIP III, LLC
25 ("BC-3"), Blue Chip II, LLC, a Mississippi limited liability company ("BC II") and
26 Blue Chip Recycling, LLC, a California limited liability company ("BCR"),
27 Defendant TRAVELERS CASUALTY & SURETY COMPANY OF AMERICA
28 ("Travelers"), and Defendant LIPSCOMB & PITTS INSURANCE AGENCY, LLC

**STIPULATION RE FURTHER AMENDMENT OF PRETRIAL PREPARATION
ORDER**

1 ("Lipscomb"), by and through their attorneys of record, stipulate as follows:

2 1. The Court's Pretrial Preparation Order of September 9, 2015, provided
3 for the following relevant deadlines and cut-off dates:

- 4 a. Expert witness initial disclosures: October 30, 2015;
- 5 b. Expert witness rebuttal disclosures: November 16, 2015;
- 6 c. Expert discovery cut-off: December 11, 2015;
- 7 d. Non-Expert discovery cutoff: December 11, 2015;
- 8 e. Dispositive motion filing deadline: January 15, 2016;
- 9 f. Dispositive motion opposition filing deadline: January 29, 2016;
- 10 g. Dispositive motion reply filing deadline: February 5, 2016; and
- 11 h. Dispositive motion hearing cut-off: February 29, 2016.

12 2. Following the parties unsuccessful mediation with Janet R. Fields, Esq.
13 of Judicate West, on August 20, 2015, the Court, on September 11, 2015, ordered
14 the parties to resume mediation in February 2016.

15 3. After the further case management conference was held in this action
16 on December 18, 2015, and pursuant to the parties' request for an extension of
17 certain deadlines in the Court's Pretrial Preparation Order, the Court entered a
18 Second Pretrial Preparation Order on December 21, 2015 and continued the
19 deadlines and dates in this action as follows:

- 20 a. Non-Expert deposition cutoff: February 29, 2016;
- 21 b. Expert discovery cut-off: March 15, 2016;
- 22 c. Dispositive motion filing deadline: April 2, 2016;
- 23 d. Dispositive motion opposition filing deadline: April 15, 2016;
- 24 e. Dispositive motion reply filing deadline: April 22, 2016;
- 25 f. Dispositive motion hearing cut-off: May 6, 2016; and
- 26 g. Pretrial conference: August 16, 2016.
- 27 h. Trial: August 29, 2016 at 8:30 a.m.

28 4. The parties have exchanged written discovery, produced substantial

1 documentation in response to requests for production, and deposed a majority of the
2 parties' witnesses.

3 5. On February 18, 2016, after the parties participated in a lengthy second
4 mediation with mediator Robert Kaplan, Esq. of Judicate West, Mr. Kaplan issued a
5 settlement proposal to the parties. The parties have been provided with two weeks
6 to respond to the settlement proposal due to the number of parties and complexity of
7 issues involved in this action.

8 6. In order to provide the parties with sufficient time to (a) evaluate and
9 respond to Mr. Kaplan's mediator's proposal, and (b) complete discovery, expert
10 discovery, and accordingly file dispositive motions, and pursuant to the parties'
11 request for an extension of certain deadlines in the Court's Pretrial Preparation
12 Order, the Court entered an Order on the parties' Stipulation re Amendment of
13 Second Pretrial Preparation Order on February 22, 2016 and continued the deadlines
14 and dates in this action.

15 7. Due to the complexity of issues in this case, the parties extended the
16 deadline to respond to Mr. Kaplan's settlement proposal to March 18, 2016, and
17 then beyond that date.

18 8. As a result of Mr. Kaplan's continued mediation efforts, the parties
19 requested additional time to complete discovery, expert discovery, and file
20 dispositive motions. The Court entered an Order on the parties' Stipulation re
21 Amendment of Second Pretrial Preparation Order on March 28, 2016, and continued
22 the deadlines and dates in this action as follows:

- 23 a. Non-Expert deposition cutoff: April 29, 2016;
- 24 b. Expert discovery cut-off: May 13, 2016;
- 25 c. Dispositive motion filing deadline: May 27, 2016;
- 26 d. Dispositive motion opposition filing deadline: June 10, 2016;
- 27 e. Dispositive motion reply filing deadline: June 17, 2016;
- 28 f. Dispositive motion hearing cut-off: July 8, 2016.

1 9. Following the parties' stipulation to amend the scheduling order,
2 plaintiffs' counsel, Richard Collins, who has conducted all of the written discovery,
3 and has attended all of the depositions and court appearances for plaintiffs, was
4 scheduled for shoulder surgery on April 13, 2016. On April 5, 2016, Mr. Collins
5 had a pre-operative surgical consult with his doctor, at which time his doctor
6 imposed the following disability restrictions: "Off work for 2 weeks, then no air or
7 long car travel for 4 weeks." A true and correct copy of Mr. Collins' disability
8 certificate is attached as Exhibit A to this stipulation.

9 10. Of the remaining depositions, at least three of the witnesses are located
10 in Memphis, Tennessee, one is in St. Louis, Missouri, one is in Kansas City, Kansas,
11 and another is in Chicago, Illinois. Pursuant to the disability restrictions, Mr.
12 Collins will be unable to travel to any of these depositions until after May 25, 2016,
13 which is beyond the current discovery cut-off and only two days before the
14 dispositive motion filing deadline.

15 11. The parties agree that Mr. Collins' disability is good cause for
16 extending the cut-off dates and deadlines.

17 12. The parties agree that further good cause for extending the cut-off dates
18 and deadlines can be found in Mr. Kaplan's ongoing mediation efforts.

19 13. The parties agree that extending the cut-off dates and deadlines will
20 necessarily require continuance of the trial.

21 14. As a result of the foregoing, the parties require additional time to
22 complete discovery, expert discovery, and file dispositive motions. Accordingly,
23 the parties agree that there is good cause to further amend the Second Pretrial
24 Preparation Order to extend the deadlines and cut-offs, and to continue the trial as
25 follows:

- 26 a. Non-Expert deposition cutoff: June 30, 2016;
- 27 b. Expert discovery cut-off: July 15, 2016;
- 28 c. Dispositive motion filing deadline: July 29, 2016;

- 1 d. Dispositive motion opposition filing deadline: August 12, 2016;
- 2 e. Dispositive motion reply filing deadline: August 19, 2016;
- 3 f. Dispositive motion hearing cut-off: September 9, 2016.
- 4 g. Pretrial conference: October 19, 2016, at 3:30 p.m. The
- 5 deadlines to comply with the Court's Pre-Trial Instructions [Docket #78-1] shall be
- 6 calculated based upon this date.

- 7 h. Trial: October 31, 2016, at 8:30 a.m.
- 8 15. This stipulation may be signed in counterparts and electronic,
- 9 photocopy and facsimile signatures will suffice as though they were original
- 10 signatures.

12 Dated: April 11, 2016

CALLAHAN & BLAINE, APLC

15 By: /s/ Richard T. Collins
16 Edward Susolik, Esq.
17 Richard T. Collins, Esq.
18 Attorneys for Plaintiffs, L&M
19 VENTURES, LLC, STUART LERNER;
20 BLUE CHIP III, LLC; BLUE CHIP II,
21 LLC; and BLUE CHIP RECYCLING,
22 LLC

20 Dated: April 11, 2016

LITCHFIELD CAVO, LLP

22 By: /s/ G. David Rubin
23 G. David Rubin, Esq.
24 Talar Tavlian, Esq.
25 Attorneys for Defendant, TRAVELERS
26 CASUALTY & SURETY COMPANY
27 OF AMERICA

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Dated: April 11, 2016

**GOFFSTEIN, RASKAS, POMERANTZ,
KRAUS & SHERMAN, LLC**

By: /s/ Sanford Goffstein
Sanford Goffstein, Esq.
Attorneys for Defendant, LIPSCOMB &
PITTS INSURANCE AGENCY, LLC

IT IS SO ORDERED.

Dated: 4/13, 2016

By: 
HONORABLE SUSAN ILLSTON
United States District Court Judge

1 **PROOF OF SERVICE**
2 **L&M VENTURES V. TRAVELERS CASUALTY, et al.,**
3 **U.S.D.C. Case No. 3:10-cv-05764-SI**

4 I am employed in the County of Orange, State of California. I am over the
5 age of 18 years and am not a party to the within action; my business address is **3**
6 **Hutton Centre Drive, Ninth Floor, Santa Ana, California 92707.**

7 On April 11, 2016, I served the following document(s) described as
8 **STIPULATION RE FURTHER AMENDMENT OF SECOND PRETRIAL**
9 **PREPARATION ORDER AND CONTINUANCE OF TRIAL**

10 on the interested parties in this action by placing: the original a true copy
11 thereof enclosed in a sealed envelope addressed as follows:

12 Please see attached "Service List".

13 **BY ELECTRONIC MAIL:** I electronically filed such document with the
14 Clerk of the Court using the CM/ECF system, which sent electronic
15 notification of such filing to all other parties appearing on the docket sheet as
16 listed below:

17 **Edward Daniel Vaisbort** vaisbort@litchfieldcavo.com,
18 james@litchfieldcavo.com

19 **G David Rubin** rubin@litchfieldcavo.com

20 **John Carl Scholz** jscholz@lerner-mcdonald.com,
21 jleiman@lerner-mcdonald.com, lido14@verizon.net

22 **Julie A. Lemmer** jlemmer@cresswell-law.com

23 **Ronald D. Echeguren** recheguren@cresswell-law.com,
24 dhartley@cresswell-law.com, drodgers@cresswell-law.com,
25 mharvey@cresswell-law.com

26 **Sanford Goffstein** sgoffstein@grlawstl.com

27 **Talar Tavlian** tavlian@litchfieldcavo.com,
28 gonzales@litchfieldcavo.com, harmon@litchfieldcavo.com

I declare under penalty of perjury under the laws of the United States of
America and the State of California that the foregoing is true and correct.

Executed on April 11, 2016, at Santa Ana, California.

/s/ Maria Martinez

Maria Martinez

EXHIBIT A

COMMUNITY ORTHOPEDIC MEDICAL GROUP

Orthopedic Specialists

Jerald P. Waldman, M.D., Inc. ♦ Kent R. Adamson, M.D., Inc. ♦ Tom D. Thomas, M.D., Inc. ♦ Michael S. Marandola, M.D., Inc.
Kent S. Marangi, M.D., Inc. ♦ John R. Morris, M.D., Inc. ♦ Edmund S. Evangelista, M.D., Inc. ♦ Michael D. Burdi, M.D., Inc.
Stephen L. Tocci, M.D., Inc. ♦ Tiva Hanjan, M.D., Inc. ♦ Stephen T. Gardner, M.D., Inc. ♦ Charles L. Stewart, PA-C ♦ Jason W. Knott, PA-C
Amanda J. Shanklin, PA-C ♦ Scott A. Stephan, PA-C ♦ Ronan M. Donnelly, PA-C ♦ Valerie L. DeGregorio, PA-C

26401 Crown Valley Parkway, Suite 101 ♦ Mission Viejo, CA 92691-6350
Tel: (949) 348-4000 ♦ Fax: (949) 348-1263 ♦ Web: www.comg.com

DISABILITY CERTIFICATE

Patient Name: Collins, Richard T

Date: April 5, 2016

THE ABOVE IS UNDER MY CARE FOR AN ORTHOPEDIC CONDITION

Diagnosis:

M75.101 Tear of right rotator cuff, unspecified tear extent

M75.21 Right bicipital tenosynovitis

RESTRICTIONS:

Off work for 2 weeks, then no air or long car travel for 4 weeks.

Next Appointment Date:



Michael S. Marandola MD

PLEASE EXCUSE ABSENCE NECESSITATED BY DOCTOR'S APPOINTMENT TODAY

ELECTRONIC DOCUMENT - DO NOT SCAN