

1 Mark G. Lerner, Esq. (SBN 105966)
 mlerner@lerner-mcdonald.com
 2 John C. Scholz, Esq. (SBN 196054)
 jscholz@lerner-mcdonald.com
 3 LERNER & McDONALD
 5 Hutton Centre Drive, Suite 1025
 4 Santa Ana, California 92707
 (714) 850-9000
 5
 6 Attorneys for Plaintiffs
 L&M VENTURES, LLC,
 7 STUART LERNER, and
 BLUE CHIP III, LLC

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

11 L&M VENTURES, LLC, a California Limited)
 Liability Company; STUART LERNER, an)
 12 individual; and BLUE CHIP III, LLC, a)
 Mississippi Limited Liability Company,)
 13)
 Plaintiffs,)
 14)
 vs.)
 15)
 TRAVELERS CASUALTY & SURETY)
 16 COMPANY OF AMERICA, a Connecticut)
 Corporation; LIPSCOMB & PITTS)
 17 INSURANCE AGENCY, LLC, a Delaware)
 Limited Liability Company; and DOES 1 to)
 18 500, inclusive,)
 19)
 Defendants.)

CASE NO. CV 10 5764 SI
**STIPULATION AND ~~PROPOSED~~
 ORDER TO EXTEND ADR
 COMPLETION**

20 ///
 21 ///
 22 ///
 23 ///
 24 ///
 25 ///
 26 ///
 27 ///
 28 ///

1 Counsel for Plaintiffs L&M VENTURES, LLC, a California Limited Liability Company,
2 STUART LERNER, an individual, and BLUE CHIP III, LLC, (collectively “Plaintiffs”), as well as
3 Defendant TRAVELERS CASUALTY & SURETY COMPANY OF AMERICA (“Travelers”) and
4 Defendant LIPSCOMB & PITTS INSURANCE AGENCY, LLC (“Lipscomb”) hereby stipulate to
5 extend the ADR completion deadline as follows:

6 1. Each of the parties herein have exchanged written discovery and produced substantial
7 documentation in response to requests for production. Lipscomb has requested that dates for
8 depositions be provided and the parties are in the process of scheduling numerous depositions to take
9 place over the next several months. Many, if not most, of the depositions necessary in this case are
10 outside the State of California.

11 2. The underlying state court action filed in Cape Girardeau, Missouri (“Missouri Action”)
12 named as defendants therein each of the three (3) Plaintiffs, together with other parties. After Plaintiffs,
13 in the Missouri Action, filed their Third Amended petition, Travelers has recently agreed to defend
14 Lerner in his capacity as an agent of Blue Chip II, LLC and as an agent of Blue Chip Recycling, LLC
15 (but not individually or in any other capacity) under a reservation of rights. Plaintiffs’ position is that
16 the issues in the Missouri Action may have a significant effect on the issues in the instant action.
17 Plaintiffs represent that the parties in the Missouri Action have already been to two (2) different
18 mediation sessions and Plaintiffs report that progress has been made toward reaching a settlement.

19 3. The Parties previously agreed to utilize private mediation with JAMS or the equivalent
20 with either a private judge or experienced attorney selected by the Parties and that the mediation would
21 be completed by November 30, 2011. Due to the failure to complete depositions of key witnesses, the
22 Parties agreed that it is premature to have a meaningful mediation on all of the issues. Further,
23 Lipscomb believes that Plaintiffs’ damages, if any, are not ascertainable at this time and this suit is
24 premature.

25 4. The parties hereto believe that they can complete key depositions and complete a
26 meaningful ADR session on or before March 31, 2012.

27 ///

28 ///

1 5. There are no other changes to the Court's prior Case Management Conference Order of
2 May 27, 2011.

3 DATED: December 2, 2011

LERNER & McDONALD

4 By: _____
5 MARK G. LERNER
6 JOHN C. SCHOLZ
7 Attorneys for Plaintiffs
8 L&M VENTURES, LLC, STUART LERNER and
9 BLUE CHIP III, LLC

10 DATED: December __, 2011

LITCHFIELD CAVO, LLP

11 By: _____
12 EDWARD D. VAISBORT, ESQ.
13 TERRY M. WEYNA, ESQ.
14 Attorneys for Defendant
15 TRAVELERS CASUALTY & SURETY COMPANY
16 OF AMERICA

17 DATED: December __, 2011

GOFFSTEIN, RASKAS, POMERANTZ, KRAUS &
SHERMAN, LLC

18 By: _____
19 SANFORD GOFFSTEIN, ESQ.

20 -and-

21 CRESSWELL, ECHEGUREN, RODGERS & NOBLE
22 Attorneys for Defendant
23 LIPSCOMB & PITTS INSURANCE AGENCY, LLC

24 **ORDER**

25 Pursuant to the Stipulation above, the private ADR session previously scheduled to be
26 completed by November 30, 2011, has been extended until _____, 2012.

27 IT IS SO ORDERED.

28 DATED: _____

UNITED STATES DISTRICT JUDGE

1 5. There are no other changes to the Court's prior Case Management Conference Order of
2 May 27, 2011.

3 DATED: December __, 2011

LERNER & McDONALD

4 By:

5 MARK G. LERNER
6 JOHN C. SCHOLZ
7 Attorneys for Plaintiffs
8 L&M VENTURES, LLC, STUART LERNER and
9 BLUE CHIP III, LLC

10 DATED: December __, 2011

LITCHFIELD CAVO, LLP

11 By:

12 EDWARD D. VAISBORT, ESQ.
13 TERRY M. WEYNA, ESQ.
14 Attorneys for Defendant
15 TRAVELERS CASUALTY & SURETY COMPANY
16 OF AMERICA

17 DATED: December __, 2011

GOFFSTEIN, RASKAS, POMERANTZ, KRAUS &
SHERMAN, LLC

18 By:

19 *Sanford Goffstein*
20 SANFORD GOFFSTEIN, ESQ.

21 -and-

22 CRESSWELL, ECHEGUREN, RODGERS & NOBLE
23 Attorneys for Defendant
24 LIPSCOMB & PITTS INSURANCE AGENCY, LLC

25 **ORDER**

26 Pursuant to the Stipulation above, the private ADR session previously scheduled to be
27 completed by November 30, 2011, has been extended until 3/31, 2012.

28 IT IS SO ORDERED.

DATED: 12/6/11

Susan Blanton
UNITED STATES DISTRICT JUDGE