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12 UNITED STATES DISTRICT COURT
 13
 14 NORTHERN DISTRICT OF CALIFORNIA

15 DANIEL DEMETRIS, et al.

16 Plaintiffs,

17 v.

18 TRANSPORT WORKERS UNION OF
 19 AMERICA, AFL/CIO,

20 Defendant.

) Case No. 3:13-cv-5566-VC
)
)

) **STIPULATION AND [PROPOSED]**
) **ORDER TAKING DISCOVERY**
) **CONFERENCE OFF CALENDAR;**
) **STAYING DEFENDANT'S MOTION**
) **TO DISMISS SECOND AMENDED**
) **COMPLAINT PURSUANT TO FED. R.**
) **CIV. P. 12(B)(1) [DKT. 106]; AND**
) **CONTINUING CASE MANAGEMENT**
) **CONFERENCE**
) **Civ. L.R. 6-2 and 7-12**

) Date: n/a
) Time: n/a
) Ctrm.: 4
) Judge: Hon. Vince Chhabria

) **Complaint Filed: December 4, 2013**
) **Trial Date: n/a**
)
)

1 Plaintiffs Daniel Demetris, William Burke, Daniel Burstein, Patrick Collins, Richard
2 Gorgas, Paul Herfel, Robert Marini, Abdul Morani, Paul Morrone, Robert Palacek, and Thomas
3 Powell (collectively “Plaintiffs”), and Defendant Transport Workers Union of America,
4 AFL/CIO (“Defendant”), herein referred to collectively as the “Parties,” hereby stipulate, by and
5 through their respective attorneys of record, as follows:

6 WHEREAS, on November 20, 2014, Defendant TWU filed a Motion for Protective
7 Order (Dkt. 107) seeking a stay of all merits discovery until 30 days after the Court rules on
8 Defendant’s currently pending Rule 12(b)(6) Motion to Dismiss the Second Amended Complaint
9 (Dkt. 104), or until the Court issues a scheduling order authorizing merits discovery to proceed,
10 whichever occurs first;

11 WHEREAS, on December 1, 2014, the Court issued a Protective Order allowing
12 Plaintiffs to “pursue appropriate discovery related to the factual issues raised by TWU’s Rule
13 12(b)(1) motion,” but staying all other discovery until at least the Case Management Conference
14 scheduled for January 27, 2015 (Dkt. 113);

15 WHEREAS, pursuant to the Court’s Protective Order, the Parties met and conferred on
16 the morning of December 2, 2014, and promptly notified the Court that they jointly requested the
17 Court’s assistance to resolve their dispute as to which of Plaintiffs’ discovery requests related to
18 Defendant’s Rule 12(b)(1) motion;

19 WHEREAS, the Court issued a Clerk’s Notice later that day (Dkt. 114) setting a
20 telephonic discovery conference for December 4, 2014 at 11:00 a.m.;

21 WHEREAS, the Parties subsequently further met and conferred and reached an
22 agreement regarding the timing of discovery related to Defendant’s Rule 12(b)(1) motion, as set
23 forth below, that obviates the need for a discovery conference on December 4;

24 WHEREAS, on November 6, 2014, the Court issued a Clerk’s Notice rescheduling the
25 November 13, 2014 Case Management Conference to January 27, 2015 (Dkt. 102); and

26 WHEREAS, Stephen Berzon, lead counsel for TWU, has a pre-existing commitment to
27 attend a Ninth Circuit Conference in Tucson, Arizona from January 26-28, 2015, and is therefore
28 unavailable for a Case Management Conference on January 27, 2015;

1 HENCE, the Parties hereby stipulate and request an Order setting forth the following:

2 1. The telephonic discovery conference scheduled for December 4, 2014 at 11:00
3 a.m. shall be vacated;

4 2. Defendant's Motion to Dismiss the Second Amended Complaint Pursuant to Fed.
5 R. Civ. P. 12(b)(1) [Dkt. 106], currently set for hearing on January 15, 2015, shall be taken off
6 calendar and stayed, to be reset following the Court's ruling on Defendant's pending Motion to
7 Dismiss the Second Amended Complaint Pursuant to Fed. R. Civ. P. 12(b)(6);

8 3. Discovery related to Defendant's Rule 12(b)(1) Motion to Dismiss the Second
9 Amended Complaint, as provided for in the Court's December 1, 2014 Protective Order (Dkt.
10 113), shall likewise be stayed pending the resetting of the Rule 12(b)(1) Motion; and

11 4. The Case Management Conference currently set for January 27, 2015 shall be
12 continued to February 3, 2015, or such other time after February 3, 2015 as is convenient for the
13 Court.

14 Dated: December 3, 2014

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24 by: /s/ Stephen P. Berzon
25 Stephen P. Berzon

26 Attorneys for Defendant

27 Dated: December 3, 2014

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by: /s/ Michael A. Caddell
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~~PROPOSED~~ ORDER

Pursuant to the Parties' stipulation and for good cause shown, the Court hereby orders the following:

1. The telephonic discovery conference scheduled for December 4, 2014 at 11:00 a.m. shall be vacated;
2. Defendant's Motion to Dismiss the Second Amended Complaint Pursuant to Fed. R. Civ. P. 12(b)(1) [Dkt. 106], currently set for hearing on January 15, 2015, shall be taken off calendar and stayed, to be reset following the Court's ruling on Defendant's pending Motion to Dismiss the Second Amended Complaint Pursuant to Fed. R. Civ. P. 12(b)(6);
3. Discovery related to Defendant's Rule 12(b)(1) Motion to Dismiss the Second Amended Complaint, as provided for in the Court's December 1, 2014 Protective Order (Dkt. 113), shall likewise be stayed pending the resetting of the Rule 12(b)(1) Motion; and
4. The Case Management Conference currently set for January 27, 2015 shall be continued to February 3, 2015 at 10:00 a.m.

IT IS SO ORDERED.

Dated: December 5, 2014



The Honorable Vince Chhabria
United States District Judge