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 Union of America, AFL/CIO

12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA

14 DANIEL DEMETRIS, et al.

15 Plaintiffs,

16 v.

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

19 Defendant.

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

) **STIPULATION AND [PROPOSED]**
) **ORDER ENLARGING BRIEFING**
) **SCHEDULE** AS MODIFIED
) **Civ. L.R. 6-2**

) 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 September 30, 2014, the Court issued an Order Denying TWU’s Motion
7 for Summary Judgment for Failure to Exhaust Internal Union Remedies; Granting Motion to
8 Dismiss With Leave to Amend, granting Plaintiffs 21 days from the date of the Order to file a
9 second amended complaint;

10 WHEREAS, Plaintiffs intend to file their second amended complaint on October 21,
11 2014;

12 WHEREAS, under the Federal and Local Rules, Defendant’s response to the second
13 amended complaint will be due November 12, 2014;

14 WHEREAS, if Defendant files a motion to dismiss the second amended complaint, the
15 Civil Local Rules provide that Plaintiffs’ opposition to said motion will be due November 26,
16 2014, and Defendant’s reply will be due December 3, 2014; and

17 WHEREAS, November 27, 2014 is Thanksgiving;

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

- 19 1. Defendant’s response to Plaintiffs’ second amended complaint shall be due
20 November 12, 2014;
- 21 2. Plaintiffs’ opposition to Defendant’s motion to dismiss the second amended
22 complaint shall be due December 5, 2014;
- 23 3. Defendant’s reply shall be due December 19, 2014
- 24 4. A hearing on the motion to dismiss shall be set for January 8, 2015 at 10:00 a.m., or
25 as soon thereafter as is convenient for the Court;

26 Dated: October 17, 2014

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by: /s/ Connie K. Chan
Connie K. Chan

Attorneys for Defendant

Dated: October 17, 2014

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by: /s/ Michael A. Caddell
Michael A. Caddell

Attorneys for Plaintiffs

1 **DECLARATION OF CONNIE K. CHAN IN SUPPORT OF STIPULATION**

2 I, Connie K. Chan, declare as follows:

3 1. I am a member in good standing of the bar of the State of California and am one
4 of the counsel of record for Defendant TWU in the above-captioned case. I make this
5 declaration in support of the Parties' stipulated request to enlarge the briefing schedule on the
6 motion to dismiss Plaintiffs' Second Amended Complaint that Defendant intends to file. The
7 facts set forth in this declaration I know to be true of my own personal knowledge, except where
8 stated to be based on information and belief.

9 2. Pursuant to Civil Local Rule 6-1(a), the Parties previously stipulated to extend the
10 time within which Defendant must file a responsive pleading to January 27, 2014.

11 3. On January 23, 2014, this case was reassigned to the Honorable Judge Orrick. In
12 light of the reassignment of this matter, the Parties agreed to extend the time within which
13 Defendant must file a responsive pleading to February 18, 2014.

14 4. On February 18, 2014, TWU filed a motion to dismiss Plaintiffs' original
15 complaint for failure to exhaust internal union remedies and failure to state a claim (Dkt. 18).

16 5. The Parties stipulated to allow Plaintiffs to file an amended complaint to add as a
17 named plaintiff Thomas Powell and to incorporate allegations from his complaint originally filed
18 in the Northern District of Texas in the action styled *Powell v. TWU et al.*, Case No. 3:14-cv-
19 00375-G (N.D. Tex.), and to a briefing schedule on any amended motion to dismiss by TWU.

20 6. At a case management conference on March 18, 2014, the Court (Judge Orrick)
21 adopted the parties' agreed upon briefing schedule for Defendant's motion to dismiss the First
22 Amended Complaint as follows: motion to dismiss due April 30, 2014; opposition due June 11,
23 2014; reply due July 9, 2014; and motion hearing set for August 27, 2014 at 2:00 p.m. (Dkt. 31).

24 7. On April 17, 2014, this case was reassigned to the Honorable Judge Chhabria.

25 8. On April 30, 2014, TWU filed a motion for summary judgment for failure to
26 exhaust internal union remedies; or alternatively, to dismiss for failure to state a claim.

27 9. On September 30, 2014, the Court issued an Order Denying TWU's Motion for
28 Summary Judgment for Failure to Exhaust Internal Union Remedies; Granting Motion to

1 Dismiss With Leave to Amend, granting Plaintiffs 21 days from the date of the Order to file a
2 second amended complaint.

3 10. On information and belief, Plaintiffs intend to file a second amended complaint
4 on October 21, 2014.

5 11. If Defendant files a motion to dismiss the second amended complaint on its
6 response deadline of November 12, 2014, the Civil Local Rules provide that Plaintiffs'
7 opposition to said motion will be due November 26, 2014, and Defendant's reply will be due
8 December 3, 2014.

9 12. Aside from a case management conference currently set for November 13, 2014,
10 no other case scheduling deadlines have yet been set in this matter.

11 I declare under penalty of perjury that the foregoing is true and correct to the best of my
12 knowledge. Executed at San Francisco, California, on October 17, 2014.

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14 /s/ Connie K. Chan
15 Connie K. Chan
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~~PROPOSED~~ ORDER AS MODIFIED

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

1. Defendant's response to Plaintiffs' second amended complaint is due November 12, 2014;
2. In the event Defendant responds by way of motion to dismiss, Plaintiffs' opposition to said motion shall be due December 5, 2014;
3. Defendants' reply shall be due December 19, 2014;
4. A hearing on Defendant's motion shall be set for January 8¹⁵, 2015, at 10:00 a.m.

IT IS SO ORDERED.

Dated: October 21, 2014



The Honorable Vince Chhabria
United States District Judge