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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LLOYD T. WHITAKER, in his capacity as
the Liquidating Trustee of the Embarcadero
Liquidating Trust,

No. C 15-03904 WHA

Plaintiff,

v.

**ORDER EXTENDING STAY AND
DENYING MOTION TO DISMISS
AS MOOT WITHOUT
PREJUDICE**

DANIEL G. HICKEY, JR., DANIEL G.
HICKEY, SR., JAMES J. SCARDINO,
CHESTER J. WALCZYK, JOSEPH F.
TAYLOR, KEITH HYNES, and DAVID
M. BIRSNER,

Defendants.

A motion to dismiss has been pending since December of 2015. As a result of counsel's various postponements, the undersigned judge will be reported to Congress for failure to have ruled on the motion. The truth is that the delay is due to the postponement sought in order to obtain the bankruptcy court's approval of the proposed settlement. The solution is to deny as moot the pending motion to dismiss without prejudice to renewal if the bankruptcy court does not approve the proposed settlement. The motion to dismiss is therefore **DENIED AS MOOT WITHOUT PREJUDICE.**

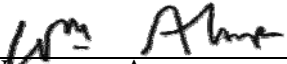
The request for an extension of the stay until September 20, 2016, is **GRANTED.** The

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parties shall submit a status report by September 21, 2016.

IT IS SO ORDERED.

Dated: September 7, 2016.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE