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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

RISING TIDE I, LLC; RISING TIDE II, LLC,

Plaintiffs,

v.

MICHAEL FITZSIMMONS; PETER LAI;
CHRIS G. POWER; PETER J. GOETTNER;
CHRISTIAN BORCHER; ERNEST D. DEL;
MARC S. YI; JAMES C. PETERS; AND
SOUHEIL S. BADRAN,

Defendants.

JOHN E. ABDO, as Trustee of the JOHN E.
ABDO TRUST DATED JUNE 11, 2014, and
JOHN E. ABDO, as Trustee of the JOHN E.
ABDO TRUST DATED MARCH 15, 1976,

Plaintiffs,

v.

MICHAEL FITZSIMMONS; PETER LAI;
CHRIS G. POWER; PETER J. GOETTNER;
CHRISTIAN BORCHER; ERNEST D. DEL;
MARC S. YI; JAMES C. PETERS; AND
SOUHEIL S. BADRAN,

Defendants.

Case No. 17-cv-00851 EDL
Case No. 17-cv-01232-EDL

**JOINT STIPULATION AND ~~[PROPOSED]~~
ORDER CONTINUING TRIAL AND
ASSOCIATED DEADLINES**

Trial Date: January 13, 2020

1 Pursuant to Fed. R. Civ. P. 6(b)(1) and Civil L.R. 6-1, 6-2, and 7-12, the parties
2 (“Parties”) in related case numbers 17CV0851-EDL and 17CV1232-EDL hereby submit, for the
3 Court’s consideration and approval, this Joint Stipulation and Order Continuing Trial and
4 Associated Deadlines as follows:

5 WHEREAS, on January 15, 2019 the Parties attended a mediation in the above titled
6 related cases, which was unsuccessful.

7 WHEREAS, at mediation it was revealed that another mediation could be more
8 productive after the completion of third party discovery, particularly discovery from third parties
9 that may be obligated to indemnify Defendants and carry relevant insurance.

10 WHEREAS, the parties have been and are diligently seeking to further third party
11 discovery and wish to continue such efforts in order to foster a potentially successful second
12 mediation.

13 WHEREAS, some third parties are resisting such discovery and it is possible that motion
14 practice will be necessary.

15 WHEREAS, given the additional discovery that needs to take place prior to the next
16 mediation, the Parties agree and stipulate to continue trial and all associated deadlines by
17 approximately sixty (60) days as follows or as deemed appropriate by the Court:

| Event | Current Deadline | Extension (60 days - with the exception of the first deadline) |
|--|------------------|--|
| Deadline to file a motion to add claims or parties | 1/30/19 | 5/30/19 ¹ |
| Close of fact discovery | 5/28/19 | 7/26/19 |
| Initial expert disclosures | 6/4/19 | 8/2/19 |
| Rebuttal expert disclosures | 6/18/19 | 8/16/19 |
| Close of expert discovery | 7/1/19 | 8/30/19 |
| Deadline for Defendants’ dispositive motion | 7/9/19 | 9/6/19 |

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27 ¹ The Parties agree to extend this deadline by 120 days because filing of third party
28 complaints/counterclaims/crossclaims is likely to impede ongoing attempts at settlement.

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|----|---|------------------------|----------|
| 1 | Deadline for Plaintiffs to file combined opposition and cross-motion brief | 7/30/19 | 9/27/19 |
| 2 | Deadline for Defendants' combined reply and opposition brief | 8/20/19 | 10/18/19 |
| 3 | Deadline for Plaintiffs' reply to the cross-motion brief | 9/3/19 | 11/1/19 |
| 4 | Hearing on dispositive motions | 9/24/19 | 11/26/19 |
| 5 | Meet and confer re joint pretrial statement, exchange of pretrial materials, and settlement (at least 30 days before pretrial conference) | Not specified in Order | 1/17/20 |
| 6 | Deadline for: | Not specified in Order | 1/29/20 |
| 7 | -Joint pretrial statement | | |
| 8 | -Trial briefs | | |
| 9 | -Motions in limine | | |
| 10 | -Daubert motions | | |
| 11 | -Proposed voir dire questions | | |
| 12 | -Jury instructions | | |
| 13 | -Verdict forms | | |
| 14 | -Deposition transcript designations and other discovery materials to be used at trial | | |
| 15 | -Exhibit setting forth expert qualifications and experience | | |
| 16 | -Exhibit lists | | |
| 17 | -Exchange of exhibits, with copy to chambers | | |
| 18 | (at least 20 days before pretrial conference) | | |
| 19 | Deadline for: | Not specified in Order | 2/7/20 |
| 20 | -Objections to exhibits or deposition excerpts or other discovery materials | | |
| 21 | -objections to non-expert witnesses | | |
| 22 | -Objections to proposed voir dire questions | | |
| 23 | -Jury instructions | | |
| 24 | -Verdict forms | | |
| 25 | -Oppositions to motions in limine | | |
| 26 | (at least 10 days before pretrial conference) | | |
| 27 | Pretrial conference | 12/17/19 | 2/18/20 |
| 28 | Jury trial (7 days) | 1/13/20 | 3/16/20 |

1 WHEREAS, in case number 17CV0851-EDL the Parties have previously stipulated to
2 and requested the Court issue an order extending the motion to dismiss briefing deadlines and
3 hearing dates, as well as the date for the Initial Case Management Conference in this action
4 (Dkts. 12, 15, 27, and 38), and this Court granted those stipulated requests (Dkts. 13, 18, 28, and
5 39).

6 WHEREAS, in case number 17CV1232-EDL the Parties have previously stipulated to
7 and requested the Court issue an order extending the motion to dismiss briefing deadlines and
8 hearing dates, as well as the date for the Initial Case Management Conference in this action
9 (Dkts. 12, 17, and 34), and this Court granted those stipulated requests (Dkts. 14, 18, 25, and 35).

10 THEREFORE, subject to the Court's approval, the Parties hereby Stipulate to an Order
11 by the Court that the trial date currently set for January 13, 2020 and all associated deadlines be
12 continued by approximately sixty (60) days.²

13
14 DATED: January 29, 2019

COBLENTZ PATCH DUFFY & BASS LLP

15
16
17 By: /s/ Rees F. Morgan

Rees F. Morgan
Sean P.J. Coyle
Sarah E. Peterson

18
19 Attorneys for Plaintiffs
20 RISING TIDE I, LLC; RISING TIDE II, LLC
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27 ² In accordance with N.D. Cal. L. R. 5-1(i)(3), the filer of this document attests that concurrence
28 in the filing of this document has been obtained from the other signatories.

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DATED: January 29, 2019

STEARNS WEAVER MILLER WEISSLER
ALHADEFF & SITTERSON, P.A.

By: /s/ Jason P. Hernandez
Eugene E. Stearns
Jason P. Hernandez
Matthew G. Graham

Attorneys for Plaintiff
JOHN E. ABDO,
as Trustee of the JOHN E. ABDO TRUST
DATED JUNE 11, 2014, and JOHN E. ABDO,
as Trustee of the JOHN E. ABDO TRUST
DATED MARCH 15, 1976

DATED: January 29, 2019

TAYLOR & PATCHEN, LLP

By: /s/ Jonathan A. Patchen
Jonathan A. Patchen
Max Baba Twine

Attorneys for Plaintiff
JOHN E. ABDO,
as Trustee of the JOHN E. ABDO TRUST
DATED JUNE 11, 2014, and JOHN E. ABDO,
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DATED: January 29, 2019

SEYFARTH SHAW LLP

By: /s/ Giovanna A. Ferrari
Gregory A. Markel
Giovanna A. Ferrari
Heather E. Murray

Attorneys for Defendants
MICHAEL R. FITZSIMMONS, PETER LAI,
CHRISTOPHER G. POWER, PETER J.
GOETTNER, CHRISTIAN BORCHER,
ERNEST D. DEL, MARC S. YI,
JAMES C. PETERS and SOUHEIL S. BADRAN

~~**PROPOSED**~~ **ORDER**

The Court, having reviewed the Parties' Joint Stipulation and [Proposed] Order Continuing Trial Date and Deadlines, orders as follows:

The trial date currently set for January 13, 2020 and all associated deadlines be continued as follows:

| Event | Current Deadline | Extension |
|---|-------------------------|------------------|
| Deadline to file a motion to add claims or parties | 1/30/19 | 5/30/19 |
| Close of fact discovery | 5/28/19 | 7/26/19 |
| Initial expert disclosures | 6/4/19 | 8/2/19 |
| Rebuttal expert disclosures | 6/18/19 | 8/16/19 |
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| Deadline for Defendants' dispositive motion | 7/9/19 | 9/6/19 |
| Deadline for Plaintiffs to file combined opposition and cross-motion brief | 7/30/19 | 9/27/19 |
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|---|-------------------------------|----------------|
| <p>Deadline for:</p> <ul style="list-style-type: none"> -Joint pretrial statement -Trial briefs -Motions in limine -Daubert motions -Proposed voir dire questions -Jury instructions -Verdict forms -Deposition transcript designations and other discovery materials to be used at trial -Exhibit setting forth expert qualifications and experience -Exhibit lists -Exchange of exhibits, with copy to chambers <p>(at least 20 days before pretrial conference)</p> | <p>Not specified in Order</p> | <p>1/29/20</p> |
| <p>Deadline for:</p> <ul style="list-style-type: none"> -Objections to exhibits or deposition excerpts or other discovery materials -objections to non-expert witnesses -Objections to proposed voir dire questions -Jury instructions -Verdict forms -Oppositions to motions in limine <p>(at least 10 days before pretrial conference)</p> | <p>Not specified in Order</p> | <p>2/7/20</p> |
| <p>Pretrial conference</p> | <p>12/17/19</p> | <p>2/18/20</p> |
| <p>Jury trial (7 days)</p> | <p>1/13/20</p> | <p>3/16/20</p> |

IT IS ORDERED.

Dated: 1/31/19


 ELIZABETH D. LAPORTE
 UNITED STATES MAGISTRATE JUDGE