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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11

12 **GOTT BROTHERS DEVELOPMENT,**
13 **LLC, a limited liability company,**

14 **Plaintiff,**

15 **vs.**

16 **JEAN NICHOLSON et. al.,**

17 **Defendants.**
18
19

20 **AND RELATED CROSS-CLAIM**
21

Case No. CV 09-0807-PJH

**STIPULATION AND [PROPOSED]
ORDER TO CONTINUE DISCOVERY
CUTOFFS PURSUANT TO FEDERAL
RULE OF CIVIL PROCEDURE 26
AS MODIFIED BY THE COURT
Judge: Hon. Phyllis J. Hamilton**

22 Plaintiffs and Cross-Defendants GOTT BROTHERS DEVELOPMENT, LLC, a limited
23 liability company; JOEL GOTT, an individual; and DUNCAN GOTT (“Plaintiffs”) and
24 Defendants and Cross-Complainants JEAN NICHOLSON and DEAN NICHOLSON,
25 individually and as Trustees of the DEAN AND JEAN T. NICHOLSON FAMILY TRUST;
26 VIRGINIA TOOGOOD, individually and as the Trustee of the VIRGINIA TOOGOOD FAMILY
27 TRUST COMPRISING VIRGINIA T. TOOGOOD (“Defendants”) (collectively referred to as

1 the "Parties") respectfully submit this Stipulation to Continue the Discovery Cutoff dates
2 pursuant to Rule 26 of the Federal Rules of Civil Procedure.

3 WHEREAS, on August 26, 2011, the Court Ordered the following Pretrial Schedule:

- 4 NON-EXPERT DISCOVERY CUTOFF: December 15, 2011
- 5 DISCLOSURE OF EXPERTS (retained and non-retained): December 15, 2011
- 6 EXPERT DISCOVERY CUTOFF: January 15, 2012

7 WHEREAS, Plaintiffs and Defendants have stipulated to continue these dates as follows:

- 8 NON-EXPERT DISCOVERY CUTOFF: January 20, 2012
- 9 DISCLOSURE OF EXPERTS (retained and non-retained): January 20, 2012
- 10 EXPERT DISCOVERY CUTOFF: February 15, 2012

11 Non-expert discovery pursuant to this Stipulation will be limited to completion of written
12 discovery already served and/or as agreed between the Parties as follows:

13 Defendants will respond to the following discovery served on November 16, 2011:

- 14 Interrogatory Nos. 1, 2, 7, 8, 9, 13, 14, 15, 15, 16, 17, 18, 19, 24 and 25;
- 15 Request for Production Nos. 1, 2, 4, 5, 7, 9, 15, 17, 18, 20, 22, 25, 27 and 28.

16 Plaintiffs and Counter-Defendants will respond to Defendants' Requests for Admissions
17 and Request for Production of Documents served at their office on November 15, 2011, without
18 objection as to the manner and timeliness of service, and Special Interrogatories served by
19 December 9, 2011, via email.

20 The parties will respond to said discovery on or before January 6, 2012. Service by
21 electronic mail is deemed acceptable.

22 The Parties stipulate and agree that they will respond to the other party's discovery
23 requests and produce documents responsive to the other party's request for production of
24 documents subject only to objections for privilege or further written agreement limiting such
25 discovery between the Parties. The Parties may interpose additional objections for the purpose of
26 preserving those objections. The Parties will complete depositions already noticed to take place
27

1 prior to December 15, 2011, and/or as agreed between the parties at mutually agreed dates, times
2 and locations as follows:

3 By Defendants and Cross-Complainants: Virginia Toogood, Jean Nicholson, Dean
4 Nicholson. The Nicholson depositions will be taken as near to their residence in Sanger,
5 California as is practicable.

6 By Plaintiffs and Cross-Defendants: Joel Gott, Duncan Gott, Gott Brothers
7 Development, LLC, Anderson Bartlett (Plaintiff reserves objections to the notice of deposition
8 for Anderson Bartlett).

9 The Parties have agreed to said extension to allow for more time to negotiate settlement
10 terms and further mediation (Mediator: Daralyn Durie) without incurring additional discovery
11 costs;

12 There has been one prior stipulation to continue the discovery cutoffs in this matter as
13 described above;

14 The extension of time will not affect the trial dates currently set in this matter;

15 NOW, THEREFORE, Plaintiffs and Defendants respectfully submit this Stipulation to
16 the Court and respectfully request that it become the Order of the Court.

17 IT IS SO STIPULATED.

18 Dated: December 7, 2011

THE LAW OFFICES OF JAMES R. ROSE

19 /s/ James R. Rose

20 _____
21 JAMES R. ROSE, Counsel for Plaintiffs and Cross-
22 Defendants

23 Dated: December 7, 2011

24 /s/ Patrick McGovern

25 _____
26 PATRICK MCGOVERN, Counsel for Defendants
27 and Cross-Complainants

1 **ORDER**

2 The Parties' Stipulation to continue the Discovery Cutoffs is hereby adopted by this
3 Court. The new discovery cutoffs are now as follows:

4 NON-EXPERT DISCOVERY CUTOFF: January 20, 2012

5 DISCLOSURE OF EXPERTS (retained and non-retained): January 20, 2012

6 EXPERT DISCOVERY CUTOFF: February 15, 2012

7 Non-expert discovery pursuant to this Stipulation will be limited to completion of written
8 discovery already served and/or as agreed between the Parties as follows:

9 Defendants will respond to the following discovery served on November 16, 2011:

10 Interrogatory Nos. 1, 2, 7, 8, 9, 13, 14, 15, 15, 16, 17, 18, 19, 24 and 25;

11 Request for Production Nos. 1, 2, 4, 5, 7, 9, 15, 17, 18, 20, 22, 25, 27 and 28.

12 Plaintiffs and Counter-Defendants will respond to Defendants' Requests for Admissions
13 and Request for Production of Documents served at their office on November 15, 2011, without
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15 December 9, 2011, via email.

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17 electronic mail is deemed acceptable.

18 The Parties stipulate and agree that they will respond to the other party's discovery
19 requests and produce documents responsive to the other party's request for production of
20 documents subject only to objections for privilege or further written agreement limiting such
21 discovery between the Parties. The Parties may interpose additional objections for the purpose of
22 preserving those objections. The Parties will complete depositions already noticed to take place
23 prior to December 15, 2011, and/or as agreed between the parties at mutually agreed dates, times
24 and locations as follows:

25 By Defendants and Cross-Complainants: Virginia Toogood, Jean Nicholson, Dean
26 Nicholson. The Nicholson depositions will be taken as near to their residence in Sanger,
27

1 California as is practicable.

2 By Plaintiffs and Cross-Defendants: Joel Gott, Duncan Gott, Gott Brothers
3 Development, LLC, and Anderson Bartlett (Plaintiff reserves objections to the notice of
4 deposition for Anderson Bartlett).

5 Such is the Order of the Court. The parties are ordered to comply with this Order.
6 Parties are reminded of referral of 11/3/11 to Magistrate Judge Ryu for settlement
7 conference. Attendance is mandatory.

8 Dated: 12/12/11

HONORABLE PHYLIS J. HAMILTON

