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6 Attorneys for Defendants and Cross-Defendants, JEANNE STEWART, JEANNE'S HAMLIN
7 CLEANERS, JEANNE STEWART dba HAMLIN CLEANERS (erroneously sued as Hamlin
8 Cleaners), and TOMMY LEE STEWART

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION**

12 GOLDEN GATE WAY, LLC, a California
Limited Liability Company,

13 Plaintiff,

14 v.

15 JEANNE STEWART, JEANNE'S HAMLIN
16 CLEANERS; HAMLIN CLEANERS;
LEONARD A. GROSS, LINDA CAPIN
17 GROSS; CONTRACTORS CAPITAL
CORPORATION; LEONARD A. GROSS
18 PROFESSIONAL CORPORATION; and
DOES 1-10, INCLUSIVE,

19 Defendants.

Case No. 4:09-CV-04458-DMR

**STIPULATION AND [PROPOSED]
ORDER FOR DISMISSAL OF ENTIRE
ACTION WITHOUT PREJUDICE**

Complaint Filed: 9/22/09

[Assigned to: Magistrate Judge Donna M. Ryu, Courtroom 4]

Trial Date: 1/26/2015

21 **AND RELATED CROSS-ACTIONS**

23 Pursuant to Federal Rule of Civil Procedure 41, plaintiff Golden Gate Way, LLC and
24 cross-defendants William and Yolanda Peacock (collectively, "Plaintiffs"); defendants and cross-
25 complainants Jeanne Stewart, Tommy Lee Stewart, Jeanne's Hamlin Cleaners, and Jeanne Stewart
26 dba Hamlin Cleaners, erroneously sued as Hamlin Cleaners (collectively, the "Stewart
27 Defendants"), and cross-defendant and cross-complainant Scott Monroe, and cross-defendant Joy
28 Monroe (collectively the "PARTIES") by and through their undersigned counsel, hereby stipulate

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1 as follows:

2 WHEREAS, Plaintiffs filed their Complaint on September 22, 2009 seeking costs for
3 investigation and cleanup of soil and groundwater, as ordered by the Regional Water Quality
4 Control Board, San Francisco Bay Region ("RWQCB"), pursuant to the Comprehensive
5 Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. §§ 9601, et
6 seq, and other relief;

7 WHEREAS, Plaintiffs' Complaint, Cross-Complaint, and Cross-Claims named the Stewart
8 Defendants, Scott Monroe and Joy Monroe;

9 WHEREAS, the Stewart Defendants filed Cross-Claims and Counter-Claims against,
10 Plaintiffs, Scott Monroe and Joy Monroe;

11 WHEREAS, Scott Monroe filed Cross-Claims against Plaintiffs and the Stewart
12 Defendants;

13 WHEREAS, Plaintiffs and the Stewart Defendants are cooperatively investigating
14 allegations of soil, groundwater and soil gas contamination at the property subject of this litigation
15 under the direction of the RWQCB. Plaintiffs' and the Stewart Defendants' investigative activities,
16 as required by the RWQCB, are not complete;

17 WHEREAS, the PARTIES desire to participate in mediation and attempt settlement of the
18 respective claims subsequent to the completion of Plaintiffs' and the Stewart Defendants'
19 investigation, but require additional time so that the investigation required by the RWQCB may be
20 completed. This timeline conflicts with the Court's present Case Management Order such to cause
21 the parties to incur unnecessary costs or unnecessarily consume judicial resources. Additionally,
22 the Plaintiffs and Stewart Defendants have represented that this additional time may result in the
23 resolution of this matter without the participation of Scott Monroe;

24 WHEREAS, the PARTIES have entered into Tolling Agreements, which toll the statute of
25 limitations for certain claims brought to date in this matter, causes the Parties to dismiss the
26 present action without prejudice, allows for the completion of the Plaintiffs' and the Stewart
27 Defendants' investigation of the subject property and allows for the Parties to mediate any
28 unresolved claims.

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THE PARTIES HEREBY STIPULATE AND AGREE, by and through their counsel of

record, that:

- 1) Plaintiff's action is hereby dismissed without prejudice;
- 2) Any and all Cross- or Counter-Claims are hereby dismissed without prejudice;
- 3) The Parties will bear their own costs, attorneys' fees and expense; and
- 4) The foregoing dismissal is voluntary and shall not operate as adjudication on the merits under Rule 41 of the Federal Rules of Civil Procedure or for any other purpose. However, this voluntary dismissal does count as one dismissal for purposes of Federal Rule of Civil Procedure 41a(1)(B).

IT IS SO STIPULATED:

Dated: May 8, 2014

RAY T. ROCKWELL
J. GARRET DEAL
LAW OFFICES OF RAY T. ROCKWELL

By: /s/ J. Garret Deal

Attorneys for Plaintiff, Counter-Defendant, Cross-Claimant, Cross-Defendant
GOLDEN GATEWAY, LLC
and Cross-Defendants
WILLIAM PEACOCK and
YOLANDA PEACOCK

Dated: May 8, 2014

DAVID F. WOOD
EMILIO A. MACASINAG
JON-ERIK W. MAGNUS
WOOD SMITH HENNING & BERMAN

By: /s/ Jon-Erik W. Magnus

Attorneys for Defendants and Cross-Complainants JEANNE STEWART, JEANNE'S HAMLIN CLEANERS, JEANNE STEWART d/b/a HAMLIN CLEANERS and TOMMY LEE STEWART

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1 Dated: May 8, 2014

LINDA C. BERESFORD
OPPER & VARCO LLP

2
3 By: /s/ Linda C. Beresford

4 Attorney for Defendant and Cross-
Complainant SCOTT MONROE

5 Dated: May 8, 2014

AARON R. FELDMAN
FELDMAN LAW GROUP

6
7 By: /s/ Aaron R. Feldman

8 Attorney for Defendant
9 JOY MONROE

10 PURSUANT TO STIPULATION, IT IS SO ORDERED

11 Dated: May 9, 2014



12 The Honorable Donna M. Ryu
13 United States Magistrate Judge

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