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12 **UNITED STATES DISTRICT COURT FOR THE**
 13 **NORTHERN DISTRICT OF CALIFORNIA**

14 OPERATING ENGINEERS' PENSION
 15 TRUST FUND; F.G. CROSTHWAITE and
 16 RUSSELL E. BURNS, as Trustees,

17 Plaintiffs,

18 v.

19 WESTERN POWER & EQUIPMENT
 20 CORP., an Oregon corporation; and
 21 WESTERN POWER & EQUIPMENT
 22 CORP., a Delaware corporation; ARIZONA
 23 PACIFIC MATERIALS II, LLC, an
 24 Arizona limited liability company;
 25 CHARLES DEAN McLAIN, as an
 26 individual; ROBERT RUBIN, as an
 27 individual; RUBIN FAMILY
 28 IRREVOCABLE STOCK TRUST; CASE
 DEALER HOLDING COMPANY, LLC
 (f/k/a CNH DEALER HOLDING
 COMPANY, LLC), a Delaware limited
 liability company; CNH AMERICA, LLC, a
 Delaware limited liability company; and
 DOES 1-20,

Defendants.

Case No. CV 10-4460 PJH

**JOINT STIPULATION AND
 [PROPOSED ORDER] TO EXTEND
 TIME FOR ARIZONA PACIFIC
 MATERIALS II, LLC TO RESPOND
 TO SECOND AMENDED
 COMPLAINT**

Trial Date: None

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1 Pursuant to Rule 6(b), FED. R. CIV. P., and Civil L.R. 6.1, Plaintiffs Operating
2 Engineers' Pension Trust Fund, F.G. Croswaite and Russell E. Burns ("Plaintiffs") and
3 Defendant Arizona Pacific Materials II, LLC ("APM II"), by through undersigned counsel,
4 hereby stipulate as follows:

5 1. The instant action is a complex action arising under the Employee
6 Retirement Income Security Act of 1974, as amended, ("ERISA"), 29 U.S.C. § 1001 *et*
7 *seq.* Plaintiffs have named nine Defendants, and are seeking, among other things, money
8 damages, liquidated damages, injunctive relief and attorneys' fees and costs.

9 2. Pursuant to the Court's February 16, 2011 Minute Order, the Second
10 Amended Complaint was filed on March 16, 2011. APM II's response was originally due
11 on April 6, 2011. Pursuant to stipulation, this Court granted an extension to respond to the
12 complaint to May 6, 2011.

13 3. Since that time, Plaintiffs and APM II have been exploring and continue to
14 explore resolution of this matter. Accordingly, the Parties request a further extension of
15 time up through and including May 26, 2011, for APM II to respond to the Second
16 Amended Complaint.

17 4. The Parties believe that a further extension of the deadline to respond to the
18 Second Amended Complaint under the circumstances here promotes the interest of judicial
19 economy, fairness, and will help effectuate a just, speedy and inexpensive determination of
20 this action. *See* FED. R. CIV. P. 1.

21 5. The requested extension will not materially delay the disposition of this
22 action, as the Second Amended Complaint was recently filed with the Court on March 16,
23 2011 and the initial Case Management Conference has been reset for June 2, 2011.

24 6. Therefore, the Parties hereby stipulate that APM II shall have until Thursday,
25 May 26, 2011 to respond to the Second Amended Complaint.

1 Dated: May 2, 2011

2 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

3
4 By /s/ M. Michael Cole

5 ROBERT FRIEDMAN (*Pro Hac App. Pending*)

6 DIANNE B. SMITH

7 M. MICHAEL COLE

8 Attorneys for Defendant

9 ARIZONA PACIFIC MATERIALS II, LLC

10 Dated: May 2, 2011

11 SALTZMAN & JOHNSON LAW CORPORATION

12 By /s/ Shaaminni A. Babu

13 SHAAMINI BABU

14 Attorneys for Plaintiffs

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16 PURSUANT TO STIPULATION, IT IS ORDERED that APM II shall have until
17 Thursday, May 26, 2011 to respond to Plaintiffs' Second Amended Complaint.

18
19 Dated: 5/3/11

20 United States Court Judge

