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 15 and KENNETH MCKAY

16 **UNITED STATES DISTRICT COURT**

17 **NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION**

18 CHARLES ROBERTS, an individual, and
 19 KENNETH MCKAY, an individual, on behalf
 of themselves and others similarly situated,

20 Plaintiff,
 21 vs.

22 C.R. ENGLAND, INC., a Utah corporation;
 OPPORTUNITY LEASING, INC., a Utah
 23 corporation; and HORIZON TRUCK SALES
 AND LEASING, LLC., a Utah Limited
 Liability Corporation,
 24 Defendants.

Case No. CV 11-02586 CW
 Honorable Claudia Wilken

**JOINT STIPULATION AND [PROPOSED]
 ORDER PURSUANT TO CIVIL L.R.
 6.2(b) SETTING BRIEFING SCHEDULE
 REGARDING DEFENDANTS’ MOTION
 TO DISMISS FILED ON AUGUST 10,
 2011**

Date Action Filed: May 27, 2011

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RECITALS

1. This stipulation is entered into by and between Plaintiffs CHARLES ROBERTS and KENNETH MCKAY (“Plaintiffs”) and Defendants C.R. ENGLAND, INC., OPPORTUNITY LEASING, INC., and HORIZON TRUCK SALES AND LEASING, LLC (“Defendants”) (Defendants and Plaintiffs are referred to collectively hereafter as the “Parties”).

2. Plaintiffs filed the original Complaint in this action on or about May 27, 2011.

3. Before Defendants were required to respond to the original Complaint, Plaintiffs voluntarily filed a First Amended Complaint (“FAC”) on June 14, 2011.

4. Plaintiffs served the FAC on Defendants on or about June 22, 2011.

5. Pursuant to the Parties’ requests to accommodate counsels’ summer vacation and work schedules, the Court considerately entered an order on June 29, 2011 giving Defendants until July 29, 2011 to answer or otherwise respond to the FAC, Plaintiffs until August 26, 2011 to oppose, and Defendants until September 8 to reply.

6. Defendants thereafter filed a motion to dismiss and motion to transfer venue on July 29, 2011.

7. On August 9, 2011, this Court issued an order denying without prejudice the two motions Defendants filed on July 29, 2011. The Court further stated that Defendants could re-file the motion as a single consolidated motion not to exceed 25 pages.

8. On August 10, 2011, Defendants filed a consolidated motion as permitted by the Court and the Court reset deadlines under Local Rule 7-3, and evidently vacated the previous briefing dates under the Order of June 29, 2011.

9. The Parties respectfully ask the Court to reset the briefing schedule to that found in its June 29, 2011 Order.

10. As support for this request, the Parties note that Plaintiffs’ lead counsel has relied for multiple weeks on the fact that the opposition papers would not be due until August 26, 2011 and has planned his schedule accordingly. The Parties therefore respectfully request a short extension for Plaintiffs to file their opposition (i.e., from August 24, 2011 to August 26, 2011).

11. Similarly, Defendants’ lead counsel has a pre-planned, out-of-state vacation from

1 August 20, 2011 to August 30, 2011. If the current briefing schedule remains in place, counsel's
2 vacation will be disrupted. Defense counsel also notes that Labor Day is September 5, 2011. The
3 Parties therefore respectfully request that the due date for Defendants' reply papers be continued
4 from August 31, 2011 to September 8, 2011 (which is the same date this Court originally
5 approved in its June 29, 2011 Order).

6 **STIPULATION**

7 In light of the foregoing recitals, the Parties hereby stipulate that:

8 1. Plaintiffs deadline to oppose the motion filed by Defendants on August 10, 2011
9 shall be extended from August 24, 2011 to August 26, 2011; and

10 2. The deadline for Defendants to file their reply papers shall be extended from
11 August 31, 2011 to September 8, 2011.

12 DATED: August 10, 2011 LAGARIAS & BOULTER L.L.P.

13
14 By: /s/
15 Robert S. Boulter
16 Attorneys for Plaintiffs CHARLES ROBERTS and
KENNETH MCKAY

17 DATED: August 10, 2011 THEODORA ORINGHER PC

18
19 By: /s/
20 Drew R. Hansen
21 Attorneys for Defendants, C.R. ENGLAND, INC.,
22 OPPORTUNITY LEASING, INC., and HORIZON
TRUCK SALES AND LEASING, LLC.

23 **ATTESTATION**

24 Concurrence in the filing of this Stipulation has been obtained from Mr. Robert S. Boulter,
25 which shall serve in lieu of his signature herein.

26 By: /s/
27 Drew R. Hansen
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ORDER

PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED:

1. Plaintiffs' deadline to oppose the consolidated motion filed by Defendants on August 10, 2011 shall be extended from August 24, 2011 to August 26, 2011.
2. The deadline for Defendants to file their reply papers shall be extended from August 31, 2011 to September 8, 2011.
3. The hearing on the consolidated motion shall take place as previously ordered on September 22, 2011 at 2:00 p.m.
4. The case management conference previously set for September 22, 2011 at 2:00 p.m. remains on calendar.

DATED: August 11, 2011



Hon. Claudia Wilken
UNITED STATES DISTRICT COURT JUDGE