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6 Attorneys for Plaintiff and Counterdefendant  
 SAN FRANCISCO BAY AREA RAPID TRANSIT  
 7 DISTRICT

8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 OAKLAND DIVISION

11 SAN FRANCISCO BAY AREA RAPID  
 12 TRANSIT DISTRICT,

Case No. 3:15-cv-01313-JSW

13 Plaintiffs,

**STIPULATION AND [PROPOSED] ORDER  
 TO AMEND ORDER SCHEDULING TRIAL  
 AND PRETRIAL MATTERS AS MODIFIED**

14 v.

15 TRAVELERS PROPERTY CASUALTY  
 COMPANY OF AMERICA, a Connecticut  
 16 Corporation,

17 Defendants.

18 TRAVELERS PROPERTY CASUALTY  
 COMPANY OF AMERICA, a Connecticut  
 19 Corporation,

20 Counterclaimant and  
 21 Third-Party  
 Claimant,

22 v.

23 SAN FRANCISCO BAY AREA RAPID  
 24 TRANSIT DISTRICT; SENTINEL  
 INSURANCE COMPANY LTD., a  
 25 Connecticut Corporation; and DOES 1-20,  
 inclusive,

26 Counterdefendant  
 27 and Third-Party  
 Defendants.  
 28

ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP  
 180 Montgomery Street, Suite 1200  
 San Francisco, California 94104

**RECITALS**

1  
2 Plaintiff/counterdefendant San Francisco Bay Area Rapid Transit District (BARTD),  
3 defendant/counterclaimant/third-party claimant/counterdefendant Travelers Property Casualty  
4 Company of America, and third-party defendant and counterclaimant Sentinel Insurance  
5 Company, LTD, jointly submit this Stipulation to request that the Court modify the August 5,  
6 2015 Amended Order Scheduling Trial and Pretrial Matters by extending the applicable trial and  
7 pretrial deadlines by 90 days. The reasons for this request and stipulation are as follows:

8 1. This coverage dispute arises from a fatal accident that occurred on Saturday,  
9 October 19, 2013 on the track between the Walnut Creek and Pleasant Hill BARTD stations.  
10 Christopher Sheppard, Manager of BARTD Track & Grounds, and Laurence Daniels, a contractor  
11 working for Anil Verma Associates, Inc. (“AVA”), an engineering firm that is insured by  
12 Travelers were on the track the afternoon of October 19 when they were struck by a train and  
13 killed.

14 2. Mr. Daniel’s heirs have sued BARTD for wrongful death in a civil suit styled,  
15 Amber Daniels, et. al, v. Bay Area Rapid Transit District, Alameda County Superior Court No.  
16 RG14725711. Plaintiffs essentially allege that BARTD negligently failed to protect Mr. Daniels  
17 while he was working on tracks during rail car movement.

18 3. BARTD filed a cross-complaint against AVA in the Daniels action for declaratory  
19 relief, and for implied and express indemnity and contribution.

20 4. BARTD is an additional insured under the Travelers policy under some  
21 circumstances. BARTD tendered its defense of the Daniels lawsuit to Travelers under the  
22 additional insured endorsement. Travelers denied that tender. BARTD filed this insurance action  
23 to determine whether Travelers has an obligation to defend.

24 5. Travelers filed a third-party claim against Sentinel Insurance Company, which  
25 insured Mr. Daniels’ company (Daniels Engineering). By this third-party claim, Travelers  
26 contends that should the Court find that Travelers owes BARTD a defense, that defense should be  
27 provided by Sentinel, and not by Travelers. Sentinel denies the claims asserted against it and  
28

1 filed a counterclaim for declaratory relief.

2           6.       The parties have been working cooperatively to resolve this coverage dispute in  
3 the most efficient way possible. In September 2015, BARTD and the insurers attended an initial  
4 mediation session in the underlying case. Although some progress was made, the wrongful death  
5 claims were not resolved. The parties to this insurance action, however, were able to discuss in  
6 principle a potential settlement strategy that would encompass the insurers' defense obligations to  
7 BARTD, and BARTD's liability claims against AVA (Travelers' insured), thus resolving the  
8 claims involved in this action.

9           7.       Unfortunately, settlement progress has been delayed by the wrongful death  
10 plaintiffs' efforts to amend their pleadings to assert a survivorship claim (although Mr. Daniels  
11 died instantly), which they contend increases the value of their case by several million dollars.  
12 Pleading challenges to that claim are currently pending. It will be difficult to engage in  
13 productive settlement negotiations encompassing the wrongful death claims until those pleading  
14 challenges are resolved. BARTD also has learned about a peripheral issue involving another  
15 agency that could potentially affect BARTD's settlement. BARTD is working to sort that issue  
16 out now.

17           8.       In addition to participation in mediation in the underlying case, BART and the  
18 insurers agreed to mediation and have had several telephone conferences with our appointed  
19 mediator, Richard Sipos. Mr. Sipos has been a very good resource. The parties and Mediator  
20 agree that it makes most sense to resolve the insurance claims in conjunction with mediation of  
21 the underlying wrongful death suit.

22           9.       Given these circumstances, including the delay in the underlying case, and the  
23 parties' continued desire to work toward a global resolution without incurring unnecessary  
24 litigation costs, our mediator Mr. Sipos suggested, and the parties agreed, that the parties ask this  
25 Court to modify the August 5, 2015 Amended Order Scheduling Trial and Pretrial Matters by  
26 extending all deadlines by 90 days.

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**STIPULATION**

For these reasons, it is hereby stipulated by and between San Francisco Bay Area Rapid Transit District (BARTD), Travelers Property Casualty Company of America, and Sentinel Insurance Company LTD, through their respective counsel of record, subject to the Court's approval, that the current Amended Order Scheduling Trial and Pretrial Matters be modified to extend all deadlines by 90 days. The modified dates are noted in bold:

**A. DATES**

- Jury Trial Date: **Monday, December 12, 2016 at 8:00 a.m.**
- Jury Selection: **Wednesday, December 7, 2016 at 8:00 a.m.**
- Pre-Trial Conference: **Monday, November 21, 2016 at 2:00 p.m.**
- Last Day to Hear Dispositive Motions: ~~Friday, August 12~~  
**Thursday, August 11, 2016 at 9:00 a.m.**
- Last day for Expert Discovery: **Thursday, October 27, 2016**
- Last day for Expert Disclosure: **Monday, October 3, 2016**
- Close of Non-expert Discovery: **Thursday, September 8, 2016**
- Deadline to Mediate: **Thursday, April 28, 2016**

The parties appreciate the Court's attention and consideration.

Respectfully submitted,

Dated: January 4, 2016

ALLEN, GLAESSNER,  
HAZELWOOD & WERTH, LLP

By: /s/ Lori A. Sebransky  
PETER O. GLAESSNER  
LORI A. SEBRANSKY  
Attorneys for SAN FRANCISCO BAY AREA  
RAPID TRANSIT DISTRICT

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Dated: January 4, 2016

CATES PETERSON LLP

By: /s/ Mark D. Peterson  
MARK D. PETERSON  
Attorneys for TRAVELERS PROPERTY  
CASUALTY COMPANY OF AMERICA

Dated: January 4, 2016


SMITH ELLISON

By: /s/ Michael W. Ellison  
MICHAEL W. ELLISON  
Attorneys for SENTINEL INSURANCE  
COMPANY LTD.

**ORDER**

The parties' stipulation is adopted and IT IS SO ORDERED. AS MODIFIED.

Dated: January 5, 2016

  
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JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE