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 19 Local Union No. 104*

20 *Additional Counsel listed on following page*

21  
 22 IN THE UNITED STATES DISTRICT COURT  
 23  
 24 NORTHERN DISTRICT OF CALIFORNIA

25 MARK A. AVILA.,  
 26  
 27 Plaintiff,

28 v.

INTERNATIONAL ASSOICATION OF SHEET  
 METAL, AIR, RAIL AND TRANSPORTATION  
 WORKERS, et al.,  
 Defendants.

CASE NO. 18-CV-02148-KAW

**STIPULATION TO STAY ACTION OR,  
 IN THE ALTERNATIVE, REGARDING  
 DEFENDANTS’ RESPONSIVE  
 PLEADINGS; [~~PROPOSED~~] ORDER**

Complaint Filed: 4-11-2018

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8 *Attorneys for Defendant*  
9 *International Association of Sheet*  
10 *Metal, Air, Rail & Transportation*  
11 *Workers*

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1 WHEREAS, Plaintiff Mark Avila filed this action on April 11, 2018;

2 WHEREAS Defendant Sheet Metal Workers' Local Union No. 104 ("Local 104") accepted  
3 service of the Complaint in exchange for an agreement to answer or otherwise respond to the  
4 Complaint by July 27, 2018;

5 WHEREAS Defendant International Association of Sheet Metal, Air, Rail & Transportation  
6 Workers ("SMART") was served with the Complaint on May 31, 2018;

7 WHEREAS on April 11, 2018, Avila also filed a motion to stay this action pending  
8 exhaustion of further internal union appeals (Dkt. 3);

9 WHEREAS Local 104 and SMART do not oppose the motion for a stay;

10 WHEREAS the Parties have met and conferred regarding the applicability of General Order  
11 71, and agree that it does not apply to this action, which is not an "employment case" within the  
12 meaning of General Order 71;

13 WHEREAS Plaintiff and Local 104 previously stipulated to a stay of this action pending  
14 Plaintiff's further exhaustion of his internal union appeals (Dkt. 12); and this Court denied the  
15 stipulation, while stating that the Court would entertain another stipulation after all defendants were  
16 properly before the Court (Dkt. 13);

17 The Parties hereby stipulate and agree as follows:

18 1. This action is immediately stayed.

19 2. All case management deadlines, including deadlines for the Fed. R. Civ. P. 26(f)  
20 conference and initial disclosures, are immediately stayed until 30 days after Avila has exhausted his  
21 internal union appeals.

22 3. If, for any reason, this Court does not approve this stipulation or grant Avila's motion  
23 for a stay, Local 104 and SMART shall have until August 24, 2018 to answer or otherwise respond to  
24 the Complaint. Local 104 and SMART do not waive any defenses with respect to the Complaint,  
25 including any defenses with respect to the exhaustion of internal union appeals.

26 3. General Order 71 does not apply to this action.

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1 Dated: July 9, 2018

/s/ Joseph W. Mc Carthy  
Joseph W. McCarthy  
Attorney for Plaintiff

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4 Dated: July 9, 2018

/s/ Eileen B. Goldsmith  
Eileen B. Goldsmith  
Attorneys for Defendant Sheet Metal  
Workers' Local Union No. 104

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8 Dated: July 9, 2018

/s/ Richard G. McCracken  
Richard G. McCracken  
Attorneys for Defendant International  
Association of Sheet Metal, Air, Rail &  
Transportation Workers

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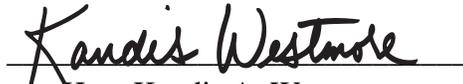
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1 **[PROPOSED] ORDER**

2 Pursuant to stipulation, and for good cause shown, this action is STAYED until 30 days after  
3 Avila has exhausted his internal union appeals. The Case Management Conference scheduled for  
4 September 11, 2018 is VACATED. General Order 71 shall not be applied in this action.

5 IT IS SO ORDERED.

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7 Date: 7/11/18

  
8 Hon. Kandis A. Westmore  
9 United States Magistrate Judge  
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