

1 THOMAS M. DONNELLY (SBN 136546)  
 JONES DAY  
 2 555 California Street, 26th Floor  
 San Francisco, CA 94104  
 3 Telephone: (415) 875-5880  
 Facsimile: (415) 875-5700  
 4 email: tmdonnelly@jonesday.com

**\*E-FILED - 6/2/11\***

5 Attorneys for Defendants KAISER ALUMINUM  
 CORPORATION and KAISER ALUMINUM &  
 6 CHEMICAL CORPORATION

7  
 8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN JOSE DIVISION

11 MOSS LANDING COMMERCIAL PARK  
 LLC,

CASE NO. C07 06072 RMW

12 Plaintiff,

**STIPULATION AND []  
 ORDER CONTINUING CASE  
 MANAGEMENT CONFERENCE**

13 v.

14 KAISER ALUMINUM CORPORATION,  
 KAISER ALUMINUM & CHEMICAL  
 15 CORPORATION, and DOES 1 through  
 100,

16 Defendants.

17  
 18 WHEREAS, plaintiff Moss Landing Commercial Park (“MLCP”) has filed and served its  
 19 First Amended Complaint (“Complaint”) upon defendants Kaiser Aluminum Corporation and  
 20 Kaiser Aluminum & Chemical Corporation (collectively, the “Kaiser Defendants”), and the  
 21 Kaiser Defendants have answered such Complaint;

22 WHEREAS, the Kaiser Defendants assert that this lawsuit is barred by the relief granted  
 23 to the Kaiser Defendants in their Chapter 11 bankruptcy proceedings;

24 WHEREAS, the Kaiser Defendants sought and obtained an order from the Delaware  
 25 Bankruptcy Court requiring MLCP to dismiss its Complaint;

26 WHEREAS, MLCP appealed therefrom to the Delaware District Court, and then to the  
 27 Third Circuit Court of Appeals;

28 WHEREAS, on July 8, 2010, the Third Circuit Court of Appeals instructed the Delaware

1 District Court to remand the case to the Delaware Bankruptcy Court for the Bankruptcy Court to  
2 provide a decision as to whether each cause of action in this lawsuit was discharged or otherwise  
3 released, waived or settled. The case was remanded back to the Delaware Bankruptcy Court by  
4 order of the Delaware District Court on September 16, 2010. The matter has been fully briefed,  
5 yet the hearing has been continued in light of the parties' settlement in principle described below.

6 Thus, the Bankruptcy Court has not yet issued a decision;

7 WHEREAS, the parties have reached a settlement in principle. They are still in the  
8 process of documenting their settlement, and will then present it to the Delaware Bankruptcy  
9 Court for review and approval. Assuming the settlement is finalized and approved by the  
10 Bankruptcy Court, the settlement will require MLCP to dismiss this lawsuit with prejudice; and

11 WHEREAS, the parties wish to conserve judicial resources and their litigation expenses.

12 NOW, THEREFORE, plaintiff MLCP and the Kaiser Defendants stipulate and  
13 respectfully request that the Court enter an order as follows:

14 1. The Case Management Conference currently scheduled for June 3, 2011, shall be  
15 continued to September 2, 2011 at 10:30 a.m. in Courtroom 6.

16 2. Not later than August 26, 2011, the parties shall file a joint Case Management  
17 Conference Statement.

18 Dated: May 27, 2011

LAW OFFICES OF CHRISTOPHER C. CAYCE

19  
20 By: /s/ Christopher C. Cayce  
21 CHRISTOPHER C. CAYCE  
22 Attorneys for Plaintiff MOSS LANDING  
23 COMMERCIAL PARK LLC  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: May 27, 2011

JONES DAY

By: /s/ Thomas M. Donnelly  
THOMAS M. DONNELLY  
Attorneys for Defendants KAISER ALUMINUM  
CORPORATION and KAISER ALUMINUM &  
CHEMICAL CORPORATION

**IT IS SO ORDERED.** This is the final continuances. The parties should be prepared to file  
dismissal by August 26, 2011.

Dated: 6/2, 2011

Ronald M. Whyte  
The Honorable Ronald M. Whyte  
United States District Court Judge