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6 Attorneys for FOUGHT & COMPANY, INC.

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

11 THE UNITED STATES OF AMERICA, for
 the use and benefit of The Erection
 12 Company, Inc.,
 13 Plaintiff,
 14 v.
 15 TRAVELERS CASUALTY & SURETY
 COMPANY OF AMERICA, a Connecticut
 16 Surety corporation; LIBERTY MUTUAL
 INSURANCE COMPANY, a
 17 Massachusetts Surety corporation; and
 FOUGHT & COMPANY, INC., an Oregon
 18 corporation,
 19 Defendants.

CASE NO. 5:15-cv-00125-PSG

STIPULATION TO RELATE CASES
~~**[PROPOSED]**~~ **ORDER**

21 Walsh/DeMaria Joint Venture V, Walsh Construction Company, The Walsh Group
 22 Ltd., DeMaria Building Company, Inc., (collectively "Walsh") Travelers Casualty and
 23 Surety Company of America ("Travelers"), Liberty Mutual Insurance Company ("Liberty"),
 24 J.R. Conkey & Associates, Inc. ("Conkey"), Fought & Company, Inc. ("Fought") and The
 25 Erection Company ("TEC") (all collectively referred to as the "Parties"), by and through
 26 their respective counsel of record herein, hereby stipulate as follows:

- 27 1. On or about July 24, 2014, Conkey commenced an action entitled *J.R.*
 28 *Conkey v. Walsh DeMaria Joint Venture V. et al.* (N.D. Cal.) Case No. 5:14-cv-03360-

1 PSG ("Conkey Action") by filing a complaint in the United States District Court for the
2 Northern District of California, including a cause of action for recovery on Miller Act
3 Payment Bond, pursuant to 40 U.S.C. §§ 3131-3134, relating to monies allegedly owed
4 for work performed at a Veterans Administration ("VA") hospital in Palo Alto, California
5 (the "Project").

6 2. On or about September 30, 2014, Fought commenced an action entitled
7 *Fought v. Walsh DeMaria Joint Venture V. et al.* (N.D. Cal.) Case No. 5:14-cv-04401-HRL
8 ("First Fought Action") by filing a complaint in the United States District Court for the
9 Northern District of California, including a Miller Act Payment Bond claim for relief,
10 pursuant to 40 U.S.C. §§ 3131 et seq., relating to monies allegedly owed for work
11 performed on the Project.

12 3. On or about December 23, 2014, Fought commenced a second action
13 entitled *Fought v. Walsh DeMaria Joint Venture V. et al.* (N.D. Cal.) Case No. 5:14-cv-
14 05600-HRL ("Second Fought Action") by filing a complaint in the United States District
15 Court for the Northern District of California, including a Miller Act Payment Bond claim for
16 relief, pursuant to 40 U.S.C. §§ 3131 et seq., relating to monies allegedly owed for work
17 performed on the Project;

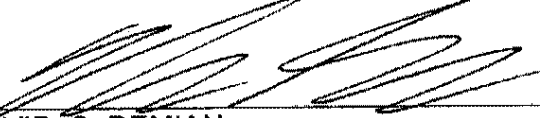
18 4. As set forth in the parties' stipulation dated January 8, 2015, the Conkey
19 Action, First Fought Action and Second Fought Action are all related within the meaning
20 of Civil Local Rule 3-12, because the actions concern substantially the same parties and
21 transaction or event. Accordingly, on January 8, 2015, the Court ordered the Conkey
22 Action, First Fought Action, and Second Fought Action related.

23 5. On or about January 9, 2015, TEC commenced an action entitled *The*
24 *Erection Company v. Travelers Casualty & Surety Company of America, et al.* (N.D. Cal.)
25 Case No. 5:14-cv-00125-PSG ("TEC Action") by filing a complaint in the United States
26 District Court for the Northern District of California that included a Miller Act Payment
27 Bond claim for relief, pursuant to 40 U.S.C. §§ 3131 et seq., relating to monies allegedly
28 owed for work performed on the Project.

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DATED: March 30, 2015

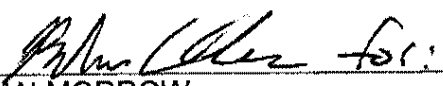
MARKS, FINCH, THORNTON & BAIRD, LLP

By: 

DAVID, S. DEMIAN
JEFFREY B. BAIRD
CHRISTOPHER R. SILLARI
Attorneys for J.R. CONKEY & ASSOCIATES,
INC.

DATED: March 30, 2015

NEWMAYER & DILLON, LLP

By: 

J. BRIAN MORROW
Attorneys for WALSH/DEMARIA JOINT
VENTURE V, WALTH CONSTRUCTION
COMPANY, THE WALSH GROUP LTD. and
DEMARIA BUILDING COMPANY, INC.

DATED: March 30, 2015

CORFIELD FELD LLP

By: _____

MICHAEL A. CORFIELD
NATLIE M. KELLOGG
Attorneys for TRAVELERS CASUALTY AND
SURETY COMPANY OF AMERICA and
LIBERTY MUTUAL INSURANCE COMPANY

1 DATED: March 30, 2015

MARKS, FINCH, THORNTON & BAIRD, LLP

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By: _____

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DAVID, S. DEMIAN
JEFFREY B. BAIRD
CHRISTOPHER R. SILLARI
Attorneys for J.R. CONKEY & ASSOCIATES,
INC.

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7 DATED: March 30, 2015

NEWMAYER & DILLSON, LLP

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By: _____

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J. BRIAN MORROW
Attorneys for WALSH/DEMARIA JOINT
VENTURE V, WALTH CONSTRUCTION
COMPANY, THE WALSH GROUP LTD. and
DEMARIA BUILDING COMPANY, INC.

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14 DATED: March 30, 2015

CORFIELD FELD LLP

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By:  _____

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MICHAEL A. CORFIELD
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Attorneys for TRAVELERS CASUALTY AND
SURETY COMPANY OF AMERICA and
LIBERTY MUTUAL INSURANCE COMPANY

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~~PROPOSED ORDER~~

THE COURT, HAVING REVIEWED AND CONSIDERED THE FOREGOING STIPULATION, AND GOOD CAUSE APPEARING THEREFOR, HEREBY ORDERS that the cases entitled *The Erection Company v. Travelers Casualty & Surety Company of America, et al.* (N.D. Cal.) Case No. 5:15-cv-00125-PSG, be deemed related to the cases entitled *J.R. Conkey v. Walsh DeMaria Joint Venture V. et al.* (N.D. Cal.) Case No. 5:14-cv-03360-PSG, *Fought v. Walsh DeMaria Joint Venture V. et al.* (N.D. Cal.) Case No. 5:14-cv-04401-PSG, and *Fought v. Walsh DeMaria Joint Venture V. et al.* (N.D. Cal.) Case No. 5:14-cv-05600-PSG, including related counter-claims and cross-claims, pursuant to L.R. 3-12 because the actions concern substantially the same parties, transaction or event and it appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.

IT IS SO ORDERED.

Dated: April 1, 2015


Magistrate Judge Paul S. Grewal