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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

KELLY BREZOCZKY, an individual,
 Plaintiff,
 v.
 DOMTAR CORPORATION, a Delaware corporation; and POLSINELLI PC, a Missouri professional corporation,
 Defendants.

Case No. 5:16-CV-4995-EJD

STIPULATION & ~~PROPOSED~~ ORDER TO EXTEND DISPOSITIVE MOTION DEADLINE IN AMENDED PRETRIAL ORDER (JURY)

Judge: Hon. Edward J. Davila
 Courtroom 4, Fifth Floor

PLAINTIFF KELLY BREZOCZKY (“Plaintiff”) and DEFENDANTS DOMTAR CORPORATION (“Domtar”) and POLSINELLI PC (“Polsinelli”) (Domtar and Polsinelli are collectively referred to herein as “Defendants”), pursuant to Local Rules 6-2 and 7-12, jointly submit this stipulation asking the Court to briefly extend the dispositive motion deadline to October 17, 2017. The proposed date below would not impact any other deadlines as described below.

1 **RECITALS**

2 WHEREAS, the Court entered its Amended Pretrial Order on August 10, 2017 (ECF No. 52),
3 setting an **October 13, 2017** deadline to file dispositive motions;

4 WHEREAS, a hearing on dispositive motions is scheduled for December 7, 2017, and the case
5 is set for trial commencing January 23, 2018;

6 WHEREAS, the dispositive motion deadline in this case has not before been extended;

7 WHEREAS, the parties have been diligent in conducting discovery, have exchanged written
8 discovery, have conducted multiple depositions, and had to calendar a number of depositions for the
9 weeks of September 25 and October 2 to accommodate the schedules of witnesses and counsel;

10 WHEREAS, due to a failure of a court reporting agency, the result of which no court reporter
11 appeared, a previously scheduled deposition in Las Vegas, Nevada is now re-scheduled for October 13,
12 2017 in the same location. This is the current dispositive motion deadline and the only near-term time
13 in which the third-party witness is available to be deposed;

14 WHEREAS, Defendants have expressed a desire to hear the testimony of the third-party
15 witness before filing any dispositive motions;

16 WHEREAS, Defendants believe that extending the deadline for dispositive motions by just two
17 business days (including the weekend) will allow them sufficient time to meet the deadline proposed
18 below, and Plaintiff has no objection as a courtesy and in recognition that the parties wish to avoid
19 filing dispositive motions on the same day as taking a deposition in Las Vegas (where no counsel of
20 record maintain an office and will be traveling);

21 WHEREAS, there is good cause for an extension of the deadline for dispositive motions;

22 WHEREAS, extending this deadline would prejudice no party;

23 WHEREAS, extending the deadline to file dispositive motions would not affect any other dates
24 in the Amended Pretrial Order in the event the Court accepts the proposed date below.

25 **STIPULATION**

26 IT IS HEREBY STIPULATED by the parties that the deadline to file dispositive motions
27 should be extended to **October 17, 2017**.

1 Dated: October 5, 2017

LEONARDMEYER LLP

2 By: /s/ Derek J. Meyer (with consent) _____

3 Derek J. Meyer

4 Attorneys for Plaintiff

5 Dated: October 5, 2017

POLSINELLI LLP

6 By: /s/ Noel S. Cohen _____

7 Noel S. Cohen

8 Attorneys for Defendants

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10 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

11 Dated: October 6, 2017

12  _____

13 Hon. Edward J. Davila

14 United States District Judge

DECLARATION OF NOEL S. COHEN

I, Noel S. Cohen, declare and state as follows:

1. I am an attorney duly licensed to practice law before all courts in the State of California, including the United States District Court for the Central District of California. I am one of the attorneys of record for Defendants in the above-captioned matter.

2. I have personal knowledge of the facts set forth herein and if called as a witness, I could and would testify competently as to those facts.

3. The Court entered its Amended Pretrial Order on August 10, 2017 (ECF No. 52), setting an **October 13, 2017** deadline to file dispositive motions.

4. A hearing on dispositive motions is scheduled for December 7, 2017, and the case is set for trial commencing January 23, 2018.

5. The dispositive motion deadline in this case has not before been extended;

6. The parties have been diligent in conducting discovery, have exchanged written discovery, have conducted a significant number of depositions, and had to calendar a number of depositions across the country for the weeks of September 25 and October 2 to accommodate the schedules of party witnesses, third party witnesses and counsel.

7. Due to a failure of a court reporting agency, the result of which no court reporter appeared, a previously scheduled deposition in Las Vegas, Nevada is now re-scheduled for October 13, 2017 in the same location. This is the current dispositive motion deadline and the only near-term time in which the third-party witness is available to be deposed.

8. Defendants wish to hear the testimony of the third-party witness before filing any dispositive motions and believe that extending the deadline for dispositive motions by just two business days (including the weekend) will allow them sufficient time to meet the deadline proposed below.

9. Plaintiff has no objection as a courtesy and in recognition that the parties wish to avoid filing dispositive motions on the same day as taking a deposition in Las Vegas (where no counsel of record maintain an office and will be traveling)

10. Extending this deadline would prejudice no party and would not affect any other dates

1 in the Amended Pretrial Order.

2 I declare under penalty of perjury under the laws of the United States of America that the
3 foregoing is true and correct.

4 Executed on October 5, 2017 at Raleigh, North Carolina.

5 /s/ Noel S. Cohen

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Noel S. Cohen

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1 **CERTIFICATE OF SERVICE**

2 I am over the age of 18 and not a party to the within action; I am employed by POLSINELLI
3 LLP in the County of Los Angeles at 2049 Century Park East, Suite 2900, Los Angeles, California
4 90067.

5
6 On October 5, 2016, I served the foregoing document(s) described as: **STIPULATION &**
7 **[PROPOSED] ORDER TO EXTEND DISPOSITIVE MOTION DEADLINE IN AMENDED**
8 **PRETRIAL ORDER (JURY)** on the interested parties in this action by:

9
10 **By CM/ECF:** I hereby certify that on this date, I electronically filed the foregoing with the
11 Clerk of the Court using the CM/ECF system which will send notification of such filing to the email
12 addresses denoted on the Electronic Mail notice list, and I hereby certify that I have mailed the
13 foregoing document or paper via the United States Postal Service to the non-CM/ECF participants (if
14 any) indicated on the Manual Notice list.

15 **(Federal)** I declare under penalty of perjury under the laws of the State of California and under
16 the laws of the United States of America that the above is true and correct.

17 Executed on October 5, 2016, at Los Angeles, California.

18 /s/ Noel S. Cohen
19 Noel S. Cohen