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Attorneys for Defendants Domtar Corporation and Polsinelli PC

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

17 KELLY BREZOCZKY, an individual,
 18 Plaintiff,
 19 v.
 20 DOMTAR CORPORATION, a Delaware
 21 corporation; and POLSINELLI PC, a Missouri
 professional corporation,
 22 Defendants.

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

**SECOND STIPULATION & [PROPOSED]
 ORDER TO EXTEND DISPOSITIVE
 MOTION DEADLINES IN PRETRIAL
 ORDER (JURY)**

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

24 PLAINTIFF KELLY BREZOCZKY (“Plaintiff”) and DEFENDANT POLSINELLI PC
 25 (“Polsinelli”), pursuant to Local Rules 6-2 and 7-12, jointly submit this stipulation asking the Court to
 26 briefly extend the deadline for filing dispositive motions to be filed by either Plaintiff or Polsinelli
 27 regarding Plaintiff’s claims against Polsinelli. The proposed date below would not impact any other
 28 deadlines as described below.

1 RECITALS

2 WHEREAS, the Court entered its Amended Pretrial Order on October 6, 2017 (ECF No. 57),
3 setting an **October 17, 2017** deadline to file all 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 been extended only once and for
7 only two business days because a court reporting agency failed to appear at a previously scheduled
8 deposition, requiring the deposition to be rescheduled;

9 WHEREAS, the parties have been diligent in conducting discovery, have exchanged written
10 discovery, and have conducted multiple depositions;

11 WHEREAS, Plaintiff and Polsinelli have been engaged in settlement discussions, which have
12 been positive, and Plaintiff and Polsinelli are presently engaged in drafting documents in a mutual
13 effort to achieve a settlement agreement;

14 WHEREAS, Plaintiff and Polsinelli would like to pursue completion of a written settlement
15 agreement, but at the same time, do not want to allow the dispositive motion deadline to expire prior to
16 the execution of a settlement agreement. A brief extension of the dispositive motion deadline as to
17 Plaintiff's claims against Polsinelli will allow them to focus this week on completing a settlement
18 agreement executed by Polsinelli and Plaintiff;

19 WHEREAS, there is good cause for extending the deadline for filing dispositive motions for
20 Plaintiff and Polsinelli as it relates to Plaintiff's claims against Polsinelli;

21 WHEREAS, extending this deadline would not prejudice any party;

22 WHEREAS, extending the deadline for filing dispositive motions as to Plaintiff's claims
23 against Polsinelli would not affect any other dates in the Amended Pretrial Order, including the
24 deadline for filing dispositive motions as to Plaintiff's claims against Domtar, in the event the Court
25 accepts the proposed date below.

1 **STIPULATION**

2 IT IS HEREBY STIPULATED by the parties that the deadlines for the parties to file
3 dispositive motions as to Plaintiff's claims against Polsinelli PC should be extended to **October 20,**
4 **2017.**

5 Dated: October 16, 2017

LEONARDMEYER LLP

6
7 By: /s/ Derek J. Meyer (with consent) _____

8 Derek J. Meyer

Attorneys for Plaintiff

9 Dated: October 16, 2017

POLSINELLI PC

10
11 By: /s/ Noel S. Cohen _____

12 Noel S. Cohen

13 Attorneys for Defendants

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

15
16 Dated: October 17, 2017

17  _____

Hon. Edward J. Davila

18 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 October 6, 2017 (ECF No. 57), setting an **October 17, 2017** deadline for filing all 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 been extended only once and for only two business days because a court reporting agency failed to appear at a previously scheduled deposition requiring that that deposition be rescheduled.

6. The parties have been diligent in conducting discovery, have exchanged written discovery, and have conducted multiple depositions.

7. The parties agree that they have agreed in principle to settle Plaintiff's claims against Polsinelli and are engaged in drafting documents to confirm a final written settlement agreement acceptable to Plaintiff and Polsinelli in its final form, an express condition of any settlement agreement and the agreement in principle to settle such claims.

8. The parties believe that briefly extending the deadline for filing dispositive motions as to Plaintiff's claims against Polsinelli will allow them sufficient time to conclude drafting and execute a final settlement agreement as to Plaintiff's claims against Polsinelli.

9. There is good cause for an extension of the dispositive motion deadline.

10. Extending this deadline would prejudice no party.

11. Extending the deadline for filing dispositive motions as to Plaintiff's claims against Polsinelli would not affect any other dates in the Amended Pretrial Order, including the deadline for filing dispositive motions as to Plaintiff's claims against Domtar, in the event the Court accepts

1 parties' proposal to extend that deadline to October 20, 2017.

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

5
6 Executed on October 16, 2017 at Los Angeles, California.

7 /s/ Noel S. Cohen

8

Noel S. Cohen

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, California at 2049 Century Park East, Suite 2900, Los Angeles,
4 California 90067.

5 On October 16, 2017, I served the foregoing document(s) described as:

6 **SECOND STIPULATION & [PROPOSED] ORDER TO EXTEND DISPOSITIVE MOTION**
7 **DEADLINES IN PRETRIAL ORDER (JURY)**

8 on the interested parties in this action by:

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

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

16 Executed on October 16, 2017, at Los Angeles, California.

17 /s/ Noel S. Cohen

18 _____
Noel S. Cohen