

ROBERT H. GREENFIELD

GREENFIELD HARDY

MARK HARDY
Admitted in CA & NV

FACSIMILE TRANSMITTAL SHEET

Date: June 27, 2007

To: All Counsel
(See attached list)

From: Beckie J. Hoff, Legal Assistant to:
MARK L. HARDY/SPECIAL MASTER
GREENFIELD HARDY

Re: Bradley v. John Mourier Construction Co. Inc., et al.
Sacramento County Superior Court Case No. 05AS 01721

Number of pages (including this transmittal sheet):

Message: Letter to Judge Candee together with Special Master's Report; and, proposed CMO No. 5 to the court and all counsel.

Original to be sent under separate cover (Y/N)? N

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Bradley v. John Mourier Construction Co. Inc., et al.
Sacramento County Superior Court Case No. 05AS01721

FAX SERVICE LIST

Our Matter No. 25m304

Glen A. Van Dyke, Esq. (916) 686-5397	Lindy H. Scoffield, Esq. (916) 565-2374
Justin N. Tierney, Esq. (916) 451-0371	Julie D. McElroy, Esq. (916) 971-4150
Grant C. Woodruff, Esq. (925) 901-2388	Roberta E. Nalbandian, Esq. (925) 734-0888
Travis N. Barrick, Esq. (415) 982-6700	Ann Connelly Vitale & Lowe (916) 851-3770
Benjamin W. Blaisdell, Esq. F: (916) 638-6607	Patrick J. Campbell, Esq. F: (916) 630-3848
Daniel P. Costa, Esq.: and, Keith E. Neurot, Esq. F: (916) 920-2857	Paul B. Walsh, Esq.; and, Barton J. Cerioni, Esq. F: (925) 939-0203
Metro Reporting Attn: Tiffany Dover (916) 482-5712 <input checked="" type="checkbox"/> Sent only if checked.	E. Val Meneses, Esq. Heather Neveu, Esq. F: (619) 789-0401
Michael Pipe Dept. 59 Sent under separate cover. <input checked="" type="checkbox"/> Sent only if checked.	

GREENFIELD HARDY LAW FIRM

June 27, 2007

Judge Roland L. Candec
Presiding Judge
Sacramento County Superior Court
Dept. 29
720 9th Street
Sacramento, CA 95814-1398

Re: Bradley v. John Mourier Construction, Inc., et al.
Sacramento County Superior Court Case No. 05AS01721

Dear Judge Candec:

I am court appointed to act as Special Master and Discovery Referee in the above entitled action. The plaintiff-homeowners have settled with the only named defendant-developer JMC. As cross-complainant, JMC continues to press various cross-defendant/subcontractors on claims for express indemnity. Approximately 10 to 12 cross-defendants remain.

Find enclosed, a **Special Master's Report and proposed Case Management Order No. 5**. I am recommending that the court grant a continuance of approximately 60 days to accommodate depository that were postponed to help ensure settlement between plaintiffs and the defendants. Continuance will also accommodate further Mandatory Settlement Conference to consider amended demands by the developer, to the cross-defendants in light of the settlement with the plaintiffs.

We have spoken to dept. 59. They can accommodate Mandatory Settlement Conference as recommended to occur on 8/1/07.

Kindly, review my report. If you agree with the recommendations, secure court endorsement; assign a new trial date; sign where indicated; and, return the order to my office for service on all counsel.

Please, call if you have questions. Thank you for the courts' indulgence and continued professional courtesies.

Very truly yours,



MARK L. HARDY

MLH:bjh
Enclosure

GREENFIELD HARDY
LAW FIRM
Finding
The Best Resolution
For Your Conflict
ROBERT H. GREENFIELD
"Tell me where to stand
and I will move the earth."
MARC L. HARDY
Admitted in both CA and NY
"When you can't let a fork
be the road, take it."
WAZIMA A. MOJADDISI
"The office and safety
of the court are the
of thought."
790 Collier Parkway
Suite 210
El Dorado Hills, CA 95762
Telephone: 916.939.1070
Fax: 916.939.2875
www.ecdlaw.com

1 Mark L. Hardy - 137770
 2 GREENFIELD - HARDY
 3 4790 Golden Foothill Pkwy, Ste. 210
 4 El Dorado Hills, CA 95762
 5 Telephone: (916) 939-1070
 6 Facsimile: (916) 939-1075

Special Master

7 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 8 IN AND FOR THE COUNTY OF SACRAMENTO

9 BRUCE BRADLEY, BIELA BRADLEY,
 10 WILLIAM BRESSAN, CARY CABANAG,
 11 MANUEL GARCIA, TIMOTHY GARRETT,
 12 JOSE GUTIERREZ, SIMON MAESTRETTI,
 13 GARYMARTINEZ, CATHERINE MARTINEZ,
 14 HELEN MAYBERRY, EUEZER PASCUA,
 15 JASON ROBNETT, ROBERT THIELKE,
 16 BETHANIE THIELKE,

Plaintiffs,

vs.

16 JOHN MOURIER CONSTRUCTION, INC., a
 17 California Corporation, dba JMC HOMES and
 18 DOES 1 through 300 inclusive,

Defendants.

Case No.: 05AS01721

**SPECIAL MASTER'S REPORT; and,
 (Proposed) CASE MANAGEMENT ORDER NO. 5
 RE: TRIAL CONTINUANCE**

20 TO THE COURT, ALL PARTIES AND TO THEIR COUNSEL OF RECORD:

21 On 6/26/07, the parties met-by and through respective counsel-
 22 in teleconference with the Special Master/Discovery Referee to
 23 discuss the effect of recent settlement between the plaintiff-
 24 homeowners and the defendant-developer, on the remaining deposits to
 25 ensure adequate trial preparations. Developer, JMC is the only named
 26 defendant. By report, JMC has now settled with each of the named
 27 plaintiffs and will proceed as against the remaining cross-defendants
 28

CMO No. 5
Bradley v. JMC, et al.

1 to pursue claims for express indemnity under subcontracts with the
2 remaining cross-defendants which include: Kenyon Construction; KC
3 Construction; Beutler; D&J Glass; Rylock, Ltd.; MTN Excavation;
4 Pacific Windows; JB Construction; GNE Landscaping; Phillips Alarm;
5 and, The Brickworks.

7 **I. TRIAL STATUS**

8 Trial is currently set to occur 7/23/07. Initial trial
9 estimates place the length at 45-60 days. Now that plaintiff,
10 homeowners, have settled and JMC pursues solely its' indemnity
11 claims, the estimated number of days is reduced to approximately 10-
12 15 days. However, the completion of the anticipated trial and the
13 nature of evidence to be produced is altered in light of what will be
14 a change in the developer's posture at trial. (Respective counsel
15 for the cross-defendants have stipulated to the trial continuance.
16 Counsel for the developer JMC objects).

19 **II. DISCOVERY**

20 The depositions of approximately 25 to 30 individuals remain.
21 Those individuals will include approximately 3 to 5 homeowners; 7 to
22 12 persons most knowledgeable; and, 7 to 12 experts. Scheduling is
23 difficult due to the intervening holiday weekend; and, more
24 particularly for the experts due to scheduled commitments for
25 deposition and trial in unrelated matters. By estimate, the parties
26 will require at least an additional 60 days to complete the requisite
27 depositions. Absent trial continuance, the cross-defendants argue
28

1 prejudice and contemplate motions in limine to pursue evidentiary
2 sanctions.

3 **III. SETTLEMENT POSTURE**

4
5 The developer JMC, as the only named defendant, issued statutory
6 offers to compromise pursuant to CCP § 998 to each of the separately
7 named plaintiffs. Each of those named plaintiffs accepted. JMC now
8 proceeds on its' cross-complaint against the various cross-
9 defendants. The nature of the settlement demands has changed and JMC
10 will issue new demands to the respective cross-defendants. In light
11 of the new demands, the parties are again postured for renewed
12 settlement negotiations.
13

14 Based on the foregoing, and for good cause appearing, the
15 Special Master/Discovery Referee hereby orders and recommends to the
16 court as follows:

17
18 **No later than 7/6/07**, the developer shall issue renewed demands
19 to the various cross-defendants for consideration at Mandatory
20 Settlement Conference;

21 **Also, no later than 7/6/07**, the parties shall serve on all
22 counsel a preliminary list of witnesses, including homeowners,
23 persons most knowledgeable, and experts that the party intends to
24 produce at trial;
25

26 **No later than 7/11/07**, the parties shall produce to counsel for
27 KC Construction-Ms. Julie McElroy, who is hereby designated to act as
28

1 chairperson for the Discovery Committee-a final list of witnesses by
2 amendment and/or by supplement to the parties' preliminary list;

3 **No later than 7/20/07**, the Discovery Committee shall issue a
4 proposed schedule for the remaining depositions of homeowners-whose
5 deposition may be requested-of those persons most knowledgeable who
6 have been designated; and, of those experts who have been disclosed.
7 The schedule shall contemplate a trial continuance of 60 days as
8 herein recommended to the court.

9
10 **On 8/1/07, beginning at 9:30 a.m., in dept. 59 of the above**
11 **entitled court, the parties shall appear at Mandatory Settlement**
12 **Conference under the direction of presiding Judge Michael G. Virga.**
13 **Clients, claims representatives, and other persons with full**
14 **settlement authority shall make personal appearance unless otherwise**
15 **excused by the presiding judge.**

16
17
18 Trial, as now set to begin 7/23/07, is hereby continued for a
19 period of no more than 60 days or as the court directs.

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By order of the Special Master and by recommendation to the

court:

Dated: 6/26/07



MARK L. HARDY
SPECIAL MASTER

Based upon the report and recommendation of the Special Master,

IT IS SO ORDERED.

Trial as now set to occur on 7/23/07, is hereby continued to

_____, beginning at _____, in dept. ____.

Counsel shall ensure compliance with all local rules governing preparation for, appearance at, and participation in trial.

Dated: _____

JUDGE OF THE SUPERIOR COURT