Electronically Filed 2/27/2024 11:54 AM Fourth Judicial District, Ada County Trent Tripple, Clerk of the Court By: Katee Hysell, Deputy Clerk

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Attorneys for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STRIDER CONSTRUCTION CO., INC.,

Plaintiff,

vs.

IDAHO WATER RESOURCE BOARD,

Defendant.

Case No. CV01-22-10932

DECLARATION OF THOMAS A. BANDUCCI IN SUPPORT OF DEFENDANT'S MOTION FOR RECONSIDERATION

DECLARATION OF THOMAS A. BANDUCCI IN SUPPORT OF DEFENDANT'S MOTION FOR RECONSIDERATION $-\,1$

STATE OF IDAHO)

: ss.

)

County of Ada

I, THOMAS A. BANDUCCI, being first duly sworn upon oath, deposes and says:

1. I am lead trial counsel in the above referenced case and have personal knowledge of the matters stated herein.

2. I joined Kirton McConkie's Boise office in November 2023, in part for the purpose of assuming lead trial counsel responsibilities on cases previously handled by Steve Andersen, who passed away on September 30, 2023.

3. As I understand it, as a result of the trial scheduling conference held last Wednesday, February 21, 2024 this court intends to set this matter for trial commencing August 5, 2024.

4. Attached hereto as **Exhibit A** is an order from Judge Norton in Bradley B LLC, Dennis Dillon RV LLC vs. BRS Architects et al. Case No. CV01-20-09653 setting that case for trial for ten days commencing August 5, 2024.

5. The Bradley B LLC matter was another case for which Mr. Andersen had lead trial counsel responsibility, and I am now lead counsel on that case, as well.

6. Apparently, Ms. Reinhardt-Tessmer, who has been getting me acquainted with the case, and who was present at the trial setting conference in this matter was unaware of the fact that I already had a trial set for August 5, 2024 when she agreed to have this case set for that same date.

7. Ms. Reinhardt-Tessmer does not have the experience necessary to handle this matter as lead trial counsel.

DECLARATION OF THOMAS A. BANDUCCI IN SUPPORT OF DEFENDANT'S MOTION FOR RECONSIDERATION – 2

8. We have one litigation paralegal, Shannon Menard, at our office in Boise who is staffed on both the Bradley B LLC case and the above referenced matter.

9. I believe that it is highly likely that both Bradley B LLC and this case will go to trial, as mediations in both cases have been unsuccessful.

10. Given that it would be impossible for me to try two cases at the same time, and given further that there are no other attorneys in the office who can assume the lead counsel role in either case, I respectfully request that the court reconsider the current trial setting, and reset the case for later in 2024 or early 2025, when counsel for both parties are available.

I declare under penalty of perjury pursuant to the laws of the State of Idaho that the foregoing is true and correct.

DATED this 27th day of February 2024.

KIRTON MCCONKIE

<u>/s/ Thomas A. Banducci</u> Thomas A. Banducci Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of February 2024, a true and correct copy of the

foregoing was served by the method indicated below, and addressed to the following:

Lindsay (Taft) Watkins, <i>Pro Hac Vice</i> Nicholas Korst, <i>Pro Hac Vice</i> AHLERS CRESSMAN & SLEIGHT PLLC 1325 4 th Ave., Suite 1850 Seattle, WA 98101 Telephone: (206) 287-9900 <i>Attorneys for Plaintiff Strider Construction Co.,</i> <i>Inc.</i>	 □ U.S. Mail □ Facsimile: □ Hand Delivery □ Overnight Delivery ○ iCourt E-File/Serve: lindsay.watkins@acslawyers.com nicholas.korst@acslawyers.com
Joe Meuleman MEULEMAN LAW GROUP PLLC 950 W. Bannock St., Ste. 490 Boise, ID 83702 Telephone: (208) 472-0066 <i>Attorneys for Plaintiff Strider Construction Co.,</i> <i>Inc.</i>	 U.S. Mail Facsimile: Hand Delivery Overnight Delivery iCourt E-File/Serve: jmeuleman@meulemanlaw.com
Garrick L. Baxter Meghan M. Carter Deputy Attorneys General Idaho Water Resource Board P.O. Box 83720 Boise, Idaho 83720-0098 Telephone: (208) 287-4800 <i>Attorneys for Defendant</i>	 U.S. Mail Facsimile: Hand Delivery Overnight Delivery iCourt E-File/Serve: garrick.baxter@idwr.idaho.gov meghan.carter@idwr.idaho.gov

/s/ Thomas A. Banducci

Thomas A. Banducci

EXHIBIT A

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

Bradley B LLC, Dennis Dillon RV LLC Plaintiff, vs. BRS Architects AIA PA, Andrew Davis, Civil Site Works LLC, Corinne Graham Defendant. Case No. CV01-20-09653

Second Order Vacating and Resetting Jury Trial

On July 18, 2023, the Joint Motion to Continue Trial and All Associated Deadlines, filed June 12, 2023, came before the Court for oral arguments and this Court found good cause to vacate an reset the jury trial in this matter.

NOTICE IS GIVEN that the following matters are VACATED:

Hearing Type	Date	Time	<u>Judge</u>
Status Conference	08/15/2023	2:30 PM	Lynn G. Norton
Pre-trial Conference	08/29/2023	2:30 PM	Lynn G. Norton
Jury Trial	10/02/2023	8:30 AM	Lynn G. Norton

NOTICE IS GIVEN That the following hearings/trial are RESET and the December 23, 2020

Notice of Trial Setting is amended as follows:

Hearing Type	Date	Time	Judge
Status Conference	6/18/2024	2:30 PM	Lynn G. Norton
Pre-trial Conference	7/2/2024	2:30 PM	Lynn G. Norton
Jury Trial – 10 days	8/5/2024	8:30 AM	Lynn G. Norton

NOTICE IS GIVEN That the following hearing REMAINS AS SCHEDULED:

Hearing Type	Date	<u>Time</u>	Judge
Motion for Partial Summary Judgment	08/01/2023	3:15 PM	Lynn G. Norton

IT IS FURTHER ORDERED that all expired deadlines based on the October 2, 2023 trial date as of July 18, 2023 have passed and this order does not renew or extend those deadlines.

However, all unexpired deadlines that the parties agreed to in their original Stipulation for

Scheduling and Planning (dated December 22, 2020) that have not passed as of July 18, 2023,

move forward and will based off of the new trial date of August 5, 2024.



The parties may extend deadlines by stipulation of the parties filed with the court except the deadline to file any motions for summary judgment. If the parties desire extension of any deadline and there is no stipulation of all parties, then the party must file a motion with the Court and show good cause to extend such deadline as required in Idaho Rule of Civil Procedure 16 or 56.

Dated: 07/18/2023

Lynn Norton

District Judge

CERTIFICATE OF SERVICE

Steven Blaine Andersen Christine Renee Arnold David W. Lloyd Louis Vaughn Spiker Riley Matthew Wavra Cory Russell Laird

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claird@lairdcowley.com	[X] By E-mail

Trent Tripple Clerk of the Court

Dated: 07/19/2023

By: Janine Korsen Deputy Clerk



