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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION

GLAS-WELD SYSTEMS, INC., an Oregon  
corporation,

Plaintiff,

v.

MICHAEL P. BOYLE, dba SURFACE  
DYNAMIX; and CHRISTOPHER M. BOYLE

Defendants.

Case No. 6:12-cv-02273-AA

**UNOPPOSED (IN PART) MOTION TO  
EXTEND LIMITED DISCOVERY, SET  
EXPERT REPORT DEADLINES, AND  
STAY FURTHER MOTION PRACTICE**

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Page 1 - **UNOPPOSED (IN PART) MOTION TO EXTEND LIMITED DISCOVERY,  
SET EXPERT REPORT DEADLINES, AND STAY FURTHER MOTION  
PRACTICE**

### **LR7-1(a) CERTIFICATION**

Counsel for Plaintiff, Glas-Weld Systems, Inc. ("Glas-Weld") certify that they have conferred with Defendant Michael P. Boyle, dba Surface Dynamix, who represented that he and Defendant Christopher M. Boyle agreed to the relief sought herein, with the exception of point 3 in the request for stay set forth below.

### **MOTION**

Glas-Weld respectfully moves the Court to extend the limited discovery period granted by the Court's November 7, 2014 Order (Dkt. No. 152), set a deadline for the service of expert reports by the party having the burden of proof on an issue for Dec. 12, 2014, set a deadline for rebuttal expert reports for January 9, 2014, and stay further motion practice in this matter pending resolution of the end of the limited discovery period.

### **MEMORANDUM**

The Court's Order of November 7, 2014 gave the parties 30 days from the date of the order to complete limited discovery on issues affected by the Court's claim construction. (Dkt. No. 152). The Parties received this order on or after November 12, 2014, when they were served via the Court's CM/ECF system. Since then the parties have worked in good faith to comply with the Court's Order, including submitting ADR reports and exchanging a draft of a joint discovery report relating to which depositions may properly be taken. The parties have also been meeting and conferring on expert discovery deadlines in view of the parties' previous agreement to stay expert discovery pending the Court's claim construction Order.

However, the parties have been unable to schedule depositions within the time frame given by the Court's order due to scheduling conflicts. Specifically, Glas-Weld's lead counsel was set for a jury trial beginning December 1, 2014, and is set for a second jury trial beginning December 15, 2014. For efficiency, the parties also wish to

Page 2 - **UNOPPOSED (IN PART) MOTION TO EXTEND LIMITED DISCOVERY,  
SET EXPERT REPORT DEADLINES, AND STAY FURTHER MOTION  
PRACTICE**

set the depositions after expert reports have been exchanged, such that each witness need only be deposed once.

Accordingly, the parties have agreed that the party bearing the burden of proof on an issue shall serve its expert report on that issue on December 12, 2014. Rebuttal Reports are to be served by January 9, 2014.

The parties also agree to a stay of motion practice in this matter, as follows:

1. Glas-Weld will respond to the currently pending motions by Michael Boyle;
2. The parties will finalize and file their joint discovery report; and

**OPPOSED PORTION OF THIS MOTION – ITEM 3 BELOW:**

3. No other new motions will be filed by any party prior to the resolution of the depositions in mid-January.

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Glas-Weld agreed to Defendants' request for a stay in this matter. Nevertheless, Defendants do not agree to refrain from filing new motions during the stay. Glas-Weld has added this restriction in order to effectuate the stay, as agreed. When Defendants were asked to clarify their position with respect to why they would not agree to Item 3, Michael Boyle responded with the email attached hereto as Exhibit A.

DATED: December 9, 2014

COSGRAVE VERGEER KESTER LLP

***/s/ Paul A. C. Berg***

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Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that I served a true and correct copy of the **UNOPPOSED (IN PART) MOTION TO EXTEND LIMITED DISCOVERY, SET EXPERT REPORT DEADLINES, AND STAY FURTHER MOTION PRACTICE** on the date indicated below by:

- mail with postage prepaid, deposited in the US mail at Portland, Oregon,
- hand delivery,
- facsimile transmission,
- email
- electronic filing notification.

I further certify that said copy was delivered as indicated above and addressed to said attorneys and defendant at the addresses listed below:

James A. Gale, Esq. **(ELECTRONIC FILING NOTIFICATION)**  
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Gregory L. Hillyer  
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Defendant Pro Se

DATED: December 9, 2014

***/s/ Paul A. C. Berg***  
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Paul A. C. Berg

**Ashley M. Long**

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**From:** Mike Boyle <surfacedynamix@gmail.com>  
**Sent:** Tuesday, December 09, 2014 2:47 PM  
**To:** Javier Sobrado; James A. Gale, Esq.; Robert Barton; Paul Berg; Ashley M. Long  
**Subject:** Re: Glas-Weld v. Boyles -- agreed motion to extend

I am requesting a stay because your firm was unavailable for depositions in the time allotted by the courts. You caused me to change scheduled surgery. That will seriously impact other proceedings as surgery will be put off till end of January.

Once again, it was your firm that could not complete discovery in the time frame the court ordered. Despite your lack of contact the first 3 days of the order, I will allow you to extra time to prepare for depositions. In a firm your size it is sad that there is only one professional that can conduct depositions, Or is it that IPISC has limited your resources.

File the motion as sent.

Mike

On Tue, Dec 9, 2014 at 1:52 PM, Javier Sobrado <[jsobrado@feldmangale.com](mailto:jsobrado@feldmangale.com)> wrote:

Mr. Boyle:

We do not understand why after three days of agreement on seeking a stay of this case Defendants are backing out of the agreement. The purpose of seeking a stay is to stop all activity in the case that is not pending until the depositions take place. If Defendants intend to file additional motions, why are Defendants requesting a stay?

-Javier