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17 **UNITED STATES DISTRICT COURT**
 18 **CENTRAL DISTRICT OF CALIFORNIA**

19 DON HENLEY, MIKE CAMPBELL
 20 and DANNY KORTCHMAR,

21 Plaintiffs,

22 v.

23 CHARLES S. DEVORE and
 24 JUSTIN HART,

25 Defendants.

Case No. SACV09-0481 JVS (RNBx)
 Hon. James V. Selna

**JOINT STIPULATION TO
 CONTINUE SETTLEMENT
 CONFERENCE, PRETRIAL
 CONFERENCE AND TRIAL DATES**

**[Filed Concurrently With Proposed
 Order]**

1 WHEREAS, on July 28, 2009, the parties submitted their Joint Report Pursuant to
2 Fed. R. Civ. P. 26(f), which provides, pursuant to Local Civil Rule 16-15.4, that the
3 parties have agreed to appear before the Magistrate Judge assigned to this case for a
4 settlement conference;

5 WHEREAS, on August 10, 2009, the Court issued the Civil Minutes regarding
6 the Scheduling Conference (“Civil Minutes”), scheduling the trial and the Final Pretrial
7 Conference for July 6, 2010 and June 21, 2010, respectively;

8 WHEREAS, pursuant to the Civil Minutes, the parties were required to file
9 motions for summary judgment no later than April 19, 2010, to be heard no later than
10 May 17, 2010;

11 WHEREAS, on January 12, 2010, the Court ordered the parties to complete
12 settlement discussions no later than May 21, 2010;

13 WHEREAS, on April 9, 2010, the parties filed cross-motions for summary
14 judgment, setting the hearing date for May 17, 2010, in accordance with the Civil
15 Minutes;

16 WHEREAS, on April 20, 2010, the Court, acting *sua sponte*, continued the
17 hearing on the motions to June 1, 2010;

18 WHEREAS, the remaining issues in this case concern Plaintiffs’ claims for
19 willful infringement in violation of the Copyright Act, 17 U.S.C. § 101 *et seq.*, and
20 Plaintiff Henley’s claim for false association in violation of the Lanham Act, 15 U.S.C.
21 § 1125(a);

22 WHEREAS, Plaintiffs are seeking partial summary judgment on Defendants’
23 liability for those claims, and Defendants are seeking summary judgment dismissing
24 those claims;

25 WHEREAS, in response to the copyright claim, Defendants have asserted a
26 defense of fair use, and in particular that their use of the Plaintiffs’ works constitutes
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1 parody, which the parties agree is a question of law for the Court that is appropriately
2 decided on summary judgment;

3 WHEREAS, the parties have each asserted that there are no genuine issues as to
4 any material fact, and that the Court can resolve the issues of liability as to the copyright
5 and Lanham Act claims on summary judgment;

6 WHEREAS, the Court's determination regarding these claims could reduce
7 and/or clarify substantially the remaining issues for trial;

8 WHEREAS, as the schedule now stands, the parties' motions *in limine* are due on
9 May 31, 2010, before the hearing on the parties' summary judgment motions;

10 WHEREAS, the parties believe it would be wasteful of the Court's and the
11 parties' time and resources to brief, and potentially argue, motions *in limine*, as well as
12 the remaining pretrial submissions, prior to the Court's ruling on the parties' summary
13 judgment motions;

14 WHEREAS, pursuant to Federal Rule of Civil Procedure 16(b)(4) and Local Rule
15 16-9, the parties respectfully request a modest continuation of the trial and Final Pretrial
16 Conference dates, as well as the due dates for the motions *in limine* and other pretrial
17 documents, by four weeks, or by such other amount of time that the Court deems
18 appropriate under the circumstances;

19 WHEREAS, the parties are further in agreement that this case is not ripe for
20 settlement while their respective summary judgment motions are pending, and that
21 settlement discussions would not be productive; and

22 WHEREAS, the parties therefore believe that preparation for and participation in
23 settlement discussions prior to the Court's ruling on the summary judgment motions
24 would be wasteful of the Court's and the parties' time and resources;

25 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the
26 parties, through their undersigned counsel of record, subject to the Court's approval,
27 that:
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1 1. The schedule set forth in the Civil Minutes, and the Order for Jury Trial,
2 dated August 11, 2009, shall be modified as follows:

3 (a) The parties shall file motions *in limine* no later than June 28, 2010,
4 or such other time that the Court deems appropriate;

5 (b) The parties shall file pretrial documents no later than July 12, 2010,
6 or such other time that the Court deems appropriate;

7 (c) The Final Pretrial Conference shall be set for July 19, 2010 at 11:00
8 a.m., or such other time that the Court deems appropriate;

9 (d) The trial shall be set for August 3, 2010 at 8:30 a.m., or such other
10 time that the Court deems appropriate;

11 2. Within seven (7) days following the entry of the Court's order deciding the
12 parties' cross-motions for summary judgment, the parties shall contact the Magistrate
13 Judge to schedule a settlement conference; and

14 3. The parties shall file all necessary documents and complete such settlement
15 discussions no later than thirty (30) days following entry of the Court's order deciding
16 the parties' summary judgment motions, subject to the availability of the Magistrate
17 Judge and any further order of the Court.

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1 Dated: May 21, 2010

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8 Dated: May 21, 2010

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