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13 Attorneys for Defendants
 NICOLETTI OIL, INC., DINO NICOLETTI,
 14 and JOHN NICOLETTI

15 UNITED STATES DISTRICT COURT
 16 EASTERN DISTRICT OF CALIFORNIA
 17

18 EXXONMOBIL OIL CORPORATION, a New
 York Corporation

19 Plaintiff,

20 v.

21 NICOLETTI OIL, INC., a California
 Corporation; DINO J. NICOLETTI, an individual
 22 and d/b/a NICOLETTI OIL, INC. and/or
 NICOLETTI OIL COMPANY; and JOHN A.
 23 NICOLETTI, an individual and d/b/a
 NICOLETTI OIL, INC. and/or NICOLETTI OIL
 24 COMPANY; and DOES 1-100, inclusive,

25 Defendants.
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No. 1:09-cv-01498-OWW-DLB

**JOINT STIPULATION AND ORDER
 TO CONTINUE HEARING ON
 DEFENDANTS' MOTION TO
 DISMISS COMPLAINT PURSUANT
 TO RULES 12(B) AND 8(A)**

Hearing Date: December 7, 2009
 Time: 10:00 a.m.
 Courtroom: 3

Honorable Oliver W. Wanger

1 Pursuant to the Local Rules of the United States District Court for the Eastern
2 District of California, Rules 78-230(g) and 83-143, Plaintiff ExxonMobil Oil Corporation
3 (“Plaintiff”) and Defendants Nicoletti Oil, Inc., Dino J. Nicoletti and John A. Nicoletti
4 (“Defendants”) stipulate to the following:

5 WHEREAS, on August 24, 2009, this action was commenced in the United States
6 District Court, Eastern District of California;

7 WHEREAS, on October 7, 2009, Defendants filed a Motion to Dismiss
8 ExxonMobil’s Complaint Pursuant to Rules 12(b) and 8(a) (“Motion to Dismiss”);

9 WHEREAS, the hearing on Defendants’ Motion to Dismiss is calendared for
10 December 7, 2009 at 10:00 a.m. in Courtroom 3;

11 Plaintiff and Defendants have agreed to continue the hearing on Defendants’
12 Motion to Dismiss and to modify the briefing schedule as follows:

13 Plaintiff’s Opposition brief shall be filed and served no later than January 6, 2010;

14 Defendants’ Reply brief shall be filed and served no later than January 25, 2010;

15 The hearing on Defendants’ Motion to Dismiss shall be continued to February 1,
16 2010 at 10:00 a.m. in Courtroom 3.

17
18 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:**

19 DATED: October 30, 2009 BINGHAM MCCUTCHEN LLP

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21 By: /s/ Allyson T. Sakai
22 Colleen P. Doyle
23 Karen A. Caffee
24 Allyson T. Sakai
25 Attorneys for Plaintiff
26 ExxonMobil Oil Corporation

27 DATED: October 30, 2009 TATRO TEKOSKY SADWICK LLP

28 By: /s/ Steven R. Tekosky
René P. Tatro
Steven R. Tekosky
Attorneys for Defendants
Nicoletti Oil, Inc., Dino J. Nicoletti,
John A. Nicoletti

1 PURSUANT TO STIPULATION, **IT IS ORDERED** that Plaintiff's Opposition
2 brief shall be filed and served no later than January 6, 2010; Defendants' Reply brief shall be
3 filed and served no later than January 25, 2010; and the hearing on Defendants' Motion to
4 Dismiss shall be continued to February 1, 2010 at 10:00 a.m. in Courtroom 3.

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6 DATED: 10/30/2009

By: /s/ OLIVER W. WANGER
The Honorable Oliver W. Wanger
United States District Court
Eastern District of California

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