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Attorneys for Defendants COURTYARD MARRIOTT MERCED; COURTYARD
MERCED INC.; KASTURI LAL; EDWIN K. ANTHONY; MAX'S PARTNERSHIP,
LLC; and MAX'S PARTNERSHIP P

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GENEVA LEMA,

CASE NO. 1:10-CV-01131-OWW-SMS
Civil Rights

Plaintiff,

v.

STIPULATION AND ORDER RE
BLUEPRINTS

COURTYARD MARRIOTT MERCED;
COURTYARD MERCED INC.;
KASTURI LAL; EDWIN K.
ANTHONY; MAX'S PARTNERSHIP,
LLC; and MAX'S PARTNERSHIP; /
and DOES 1 THROUGH 50,
Inclusive,

Defendants.

TO THE COURT:

WHEREAS the construction history of the hotel building
located at 750 Motel Drive, Merced, California, (hereafter
"Subject Building") is at issue in this case;

WHEREAS, the Custodian Of Records Of The City Of Merced
Building and Planning Department (AKA The "City of Merced

1 Building and Inspection Service"; hereafter referred to as
2 "Building Department") is in possession of certain blueprints,
3 schematics and drawings related to the design and construction of
4 the subject building that are potentially relevant to the
5 construction history and liability issues in this case, or will
6 lead to the discovery of admissible evidence on such issues,

7 WHEREAS the Parties desire to obtain certified copies from
8 the Building Department of these documents for discovery and
9 evidentiary purposes,

10 WHEREAS Plaintiff has served a subpoena on the Building
11 Department at **Exhibit 1**,

12 WHEREAS building departments in California (including the
13 City of Merced Building Department) typically assert that
14 blueprints, schematics and drawings are allegedly "privileged"
15 material, and that the Building Department is constrained by Health
16 & Safety Code Section 19851 from producing copies of such
17 documents, even when served with a federal subpoena, i.e., unless,
18 inter alia, they are ordered by the Court to do so,

19 AND WHEREAS the City of Merced Building Department has
20 asserted such objection in other cases (please see Objection at
21 **Exhibit 2**), ^{1/}

22 ¹ California Health and Safety Code Section 19851 provides
23 that the official copy of building plans maintained by the
24 building department of a city "may not be duplicated in
25 whole or in part except (1) with the written permission,
26 which permission shall not be unreasonably withheld as
27 specified in subdivision (f), of the certified, licensed
28 or registered professional or his or her successor, if

1 WHEREFORE, The Parties Hereby request that the Court order
2 the Building Department to produce all blueprints, schematics and
3 drawings and any other allegedly privileged material requested by
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21 any, who signed the original documents and the written
22 permission of the original or current owner of the
23 building, or, if the building is part of a common interest
24 development, with the written permission of the board of
25 directors or governing body of the association established
26 to manage the common interest development, **or (2) by order**
27 **of a proper court or upon the request of any state**
28 **agency."** (Emphasis added.)

1 Plaintiff in the Subpoena at **Exhibit 1.**

2 **SO STIPULATED.**

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4 Dated: August 26, 2011

TIMOTHY S. THIMESCH
THIMESCH LAW OFFICE

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7 _____
Attorneys for Plaintiff
8 NEVA LEMA

9 Dated: August 26, 2011

J.M. IRIGOYEN, ESQ.

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11 _____
/s/ Authorized Signed
12 Attorneys for Defendants
13 COURTYARD MARRIOTT MERCED;
14 COURTYARD MERCED INC.; KASTURI
15 LAL; EDWIN K. ANTHONY; MAX'S
16 PARTNERSHIP, LLC; and MAX'S
17 PARTNERSHIP

18
19 **ORDER**

20 IT IS SO ORDERED.

21 Dated: August 26, 2011

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE