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19 **UNITED STATES DISTRICT COURT**
 20 **NORTHERN DISTRICT OF CALIFORNIA**
 21 **SAN FRANCISCO DIVISION**

22 **DR MANAGEMENT, LLC, et al.,**

23 Plaintiffs,

24 vs.

25 **UNITED STATES OF AMERICA, et al.,**

26 Defendants.
 27

Case No. 05-01010 MMC

**FIFTH STIPULATION TO CONTINUE
 TRIAL DATE AND SUMMARY
 JUDGMENT MOTION HEARING DATE;
~~PROPOSED ORDER~~**

1 This stipulation between the plaintiffs (DR Management, LLC; DR Acquisitions, LLC;
2 DR Holdings, LLC; Jennifer Lin; Frederick Lin; and Kevin Lin) and the defendant (the United States
3 of America) is based on the following facts:

4 **RECITALS**

5 1. On February 7, 2008, the plaintiffs and the defendant filed a stipulation
6 (Document 145) (i) notifying this Court that the parties had reached a tentative settlement and (ii)
7 requesting that this Court continue the trial date and summary judgment hearing no less than four
8 months so as to provide the defendant with sufficient time to secure the necessary approvals from the
9 Department of Justice and the Internal Revenue Service and prepare the settlement papers.

10 2. On February 8, 2008, this Court issued an order (Document 146) approving in
11 part the stipulation to continue the trial date and summary judgment hearing date, and set the
12 following revised calendar in this action:

- 13 • Summary Judgment Motion Hearing: June 20, 2008
- 14 • Pretrial Filings, including Motions in Limine: July 1, 2008
- 15 • Opposition to Motions in Limine: July 8, 2008
- 16 • Pretrial Conference: July 15, 2008
- 17 • Trial Date: August 25, 2008

18 3. On February 20, 2008, the plaintiffs and the defendant filed a stipulation
19 (Document 147) notifying this Court of a conflict that the plaintiffs' lead lawyer, Robert D. Infelise,
20 had with the schedule adopted by this Court. On February 21, 2008, this Court issued an Order
21 (Document 148) approving the stipulation and set the following revised calendar in this action:

- 22 • Summary Judgment Motion Hearing: July 18, 2008
 - 23 • Pretrial Filings, including Motions in Limine: August 5, 2008
 - 24 • Opposition to Motions in Limine: August 12, 2008
 - 25 • Pretrial Conference: August 19, 2008
 - 26 • Trial Date: September 29, 2008
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1 4. On July 2, 2008, the plaintiffs and the defendant filed a stipulation (Document
2 149) notifying this Court that the parties needed more time to finalize the settlement and requested an
3 approximately one month extension in the dates adopted by the Court pursuant to its February 21,
4 2008 Order (Document 148). On July 3, 2008, this Court issued an Order (Document 150) approving
5 the parties stipulation for an extension and setting forth the following schedule:

- 6 • Summary Judgment Motion Hearing: August 29, 2008
- 7 • Pretrial Filings and Motions in Limine: September 19, 2008
- 8 • Opposition to Motions in Limine: September 26, 2008
- 9 • Pretrial Conference: October 7, 2008
- 10 • Trial Date: October 20, 2008

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12 5. On August 20, 2008, the plaintiffs and the defendant filed a stipulation
13 (Document 151) again notifying this Court that the parties needed more time to finalize the settlement.
14 On August 21, 2008, this Court issued an Order (Document 152) approving the parties stipulation for
15 an extension and setting forth the following schedule:

- 16 • Summary Judgment Motion Hearing: January 23, 2009
- 17 • Pretrial Filings and Motions in Limine: February 10, 2009
- 18 • Opposition to Motions in Limine: February 17, 2009
- 19 • Pretrial Conference: March 3, 2009
- 20 • Trial Date: March 23, 2009

21 6. The parties continue to diligently work toward finalizing the terms of plaintiffs'
22 offer and the government's approval for the tentative settlement. The plaintiffs have been working
23 closely with the Internal Revenue Service and the Department of Justice in responding to requests for
24 additional documents related to the tentative settlement and computation of the amount of taxes owed.
25 As noted in the Fourth Stipulation, the Internal Revenue Service is reviewing and analyzing the tax
26 information provided by the plaintiffs for multiple tax years. This process has taken longer than
27 anticipated because of the number of tax years and the volume of documents involved. The parties are
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1 working cooperatively and in good faith to quickly complete this review.

2 7. Also as noted in the Fourth Stipulation, the United States of America is
3 diligently working to obtain approvals from the various officials who must approve the settlement. As
4 this Court is aware, any settlement must be reviewed by several officials within the Department of
5 Justice, culminating with final review and approval by the Associate Attorney General of the United
6 States. To date, the settlement has been reviewed and recommended by the Western Region of the
7 Civil Trial Section of the Tax Division, and reviewed by the Tax Division's Office of Review and
8 forwarded to the Tax Division's Acting Assistant Attorney General for this matter. If he approves the
9 settlement, it would then be forwarded to the Associate Attorney General for his consideration.

10 8. The parties appreciate the Court's patience as the parties work to finalize the
11 settlement and request an extension of an additional three months.

12 **TERMS**

13 Based on these facts, the plaintiffs and the defendant agree to the following schedule:

- 14 • Summary Judgment Hearing – April 23, 2009
 - 15 • Pretrial Filings and Motions in Limine – May 11, 2009
 - 16 • Opposition to Motion in Limine – May 18, 2009
 - 17 • Pretrial Conference – June 3, 2009
 - 18 • Trial – June 25, 2009
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December 19, 2008

Cox, Castle & Nicholson LLP

By: /s/ Robert D. Infelise
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December 19, 2008

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By: /s/ Robert J. Higgins
Robert J. Higgins
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United States of America

ORDER

Pursuant to the stipulation of counsel, it is so ordered, with the exception that the Summary Judgment Hearing is continued to April 24, 2009, the Pretrial Conference is continued to June 2, 2009, and the Trial is continued to June 22, 2009.

Date: December 22 __, 2008


The Honorable Maxine M. Chesney