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Class Counsel and

Attorneys for Plaintiffs Clarke and Rebecca Wixon,

Norman and Barbara Wixon, and Kandice Scattolon

[Additional counsel appear on signature page]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

CLARK and REBECCA WIXON, NORMAN
and BARBARA WIXON, and KANDICE
SCATTOLON, derivatively and on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

WYNDHAM RESORT DEVELOPMENT
CORP. (f/k/a Trendwest Resorts, Inc.), GENE
HENSLEY, DAVID HERRICK, JOHN
HENLEY, PEGGY FRY, AND JOHN
MCCONNELL, and nominally,
WORLDMARK, THE CLUB,

Defendants.

Case No. C 07-2361 JSW

**STIPULATION AND ORDER
GOVERNING EXPERT
DISCOVERY**

Class and Derivative Action

1 WHEREAS the Court, on August 28, 2009, entered its Minute Order (Dkt. No. 411)
2 establishing, *inter alia*, April 19, 2010 as the deadline by which Plaintiffs Clarke and Rebecca Wixon,
3 Norman and Barbara Wixon and Kandice Scattolon (collectively, "Plaintiffs"), Defendant Wyndham
4 Resort Development Corporation ("Wyndham), and Individual Defendants Gene Hensley, David
5 Herrick, John Henley, Peggy Fry and John McConnell (collectively, "Director Defendants") shall
6 identify and exchange reports prepared by testifying experts, and May 19, 2010 as the date the parties
7 shall exchange rebuttal expert reports;

8 WHEREAS, pursuant to said Minute Order, expert discovery shall commence on April 19, 2010
9 and conclude by June 18, 2010; and

10 WHEREAS the undersigned parties have agreed, by and through their respective counsel,
11 subject to the approval of the Court, that expert discovery shall be governed by the proposed
12 amendments to rule 26(a)(2) and (b)(4) of the Federal Rules of Civil Procedure, which amendments
13 shall become effective as of December 1, 2010, as those amendments and procedures relate to testifying
14 experts, and the discovery of draft expert reports or lawyer communications with testifying experts;

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1 IT IS HEREBY STIPULATED AND AGREED by and between the undersigned parties, by and
2 through their respective counsel, and subject to approval of the Court, that the undersigned parties will
3 be governed by the proposed amendments to rules 26(a)(2) and (b)(4) of the Federal Rules of Civil
4 Procedure and, to that end, the parties will not seek draft reports from each other's experts in discovery,
5 nor seek to discover communications between counsel and any testifying expert except for
6 communications or information that reflects or reveals: (1) compensation for the expert's study or
7 testimony; (2) facts or data provided to the expert by counsel that the expert has considered in forming
8 his or her opinions; and (3) assumptions provided to the expert by counsel that the expert has relied
9 upon in forming an opinion. See Proposed Amendments to Fed. R. Civ. P. 26(a)(2) and (b)(4)
10 (effective December 1, 2010).

11
12 Dated: April 15, 2010

Respectfully submitted,

13 **GIRARD GIBBS LLP**

14 By: /s/ Elizabeth C. Pritzker
15 Elizabeth C. Pritzker

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Attorneys for Plaintiffs Clarke and Rebecca Wixon, Norman
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1 Dated: April 15, 2010

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8 Dated: April 15, 2010

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17 *and John McConnell*

1
2 Dated: April 15, 2010

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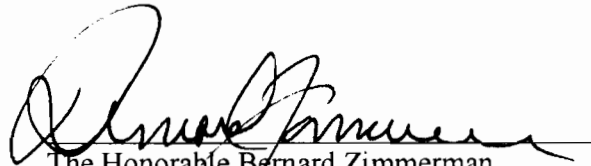
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18 *Attorneys for Defendant Wyndham Resort*
19 *Development Corporation*

20 
21 **[PROPOSED] ORDER**

22 PURSUANT TO STIPULATION, IT IS SO ORDERED.

23 DATED 15 April '10

24 
25 The Honorable Bernard Zimmerman
26 UNITED STATES MAGISTRATE JUDGE