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5 Attorney for Defendant, Max Day

6 **IN THE UNITED STATES DISTRICT COURT FOR THE**
 7 **NORTHERN DISTRICT OF CALIFORNIA**
 8 **SAN FRANCISCO DIVISION**

9 UNITED STATES OF AMERICA,	)	CASE NO. C 07 2930 SI
)	
10)	
11 Plaintiff,	)	REQUEST TO EXCUSE PERSONAL
	)	APPEARANCE OF DEFENDANT
12 vs.	)	MAX DAY AT SETTLEMENT
	)	<u>CONFERENCE AND ORDER THEREON</u>
	)	SETTLEMENT CONFERENCE
13 WILLIAM C. BERETTA, JENNIFER	)	DATE: FEBRUARY 5, 2009
14 BERETTA, MAX DAY, TOM'S SEPTIC	)	TIME: 10:00 A.M.
TANK SERVICE, INC.	)	DEPT: JUDGE LAPORTE
	)	COURTROOM: E
15 Defendants.)	
)	

16
 17 TO MAGISTRATE JUDGE ELIZABETH D. LaPORTE:

18 It is hereby requested on behalf of defendant MAX DAY that his personal appearance at the
 19 Settlement Conference on February 5, 2009, at 10:00 a.m. be excused. This request is made because
 20 said defendant resides in Homewood, California, which is in Placer County, near Lake Tahoe just
 21 inside the California-Nevada border. Said defendant's residence is over 200 miles from the above-
 22 entitled Court. Defendant's home is located in a mountainous area with considerable winter weather
 23 difficulties. In addition, defendant is 82 years of age and has ongoing health issues which make
 24 traveling long distances extremely difficult. Defendant has had recent cataract surgery restricting
 25 his ability to drive. If he has to appear personally, he will have to make arrangements for someone
 26 else to drive him to the court.

27 This defendant's personal appearance will not be helpful to the Court since this case is
 28

1 primarily a dispute between plaintiff and defendants William and Jennifer Beretta and defendant
2 Max Day is a party only because of his recorded lien on the subject real property. If this request is
3 granted, defendant will be available for contact by telephone during the Settlement Conference.

4 DATED: January 27, 2009.

5 Respectfully submitted,

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8 RAY N. COX,
9 Counsel for Defendant, Max Day

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14 **ORDER**

15 The Court having reviewed and considered the request of defendant Max Day to excuse his
16 personal appearance at the Settlement Conference in this matter and good cause appearing therefor,

17 IT IS HEREBY ORDERED that the personal appearance of defendant Max Day at the
18 Settlement Conference on February 5, 2009, at 10:00 is excused. Said defendant shall be available
19 for telephone contact with his attorney during the time of the Settlement Conference.

20 DATED: 1/28/2009

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22 _____
23 ELIZABETH D. LAPORTE
24 United States

