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UNITED STATES DISTRICT COURT
Northern District of California

SAN FRANCISCO AESTHETICS AND
LASER MEDICINE INC, *et al.*,

Plaintiffs,

v.

THE PRESIDIO TRUST, *et al.*

Defendants.

No. C 07-05170 EDL (MEJ)

**ORDER RE AMOUNT DUE UNDER
AMENDED STIPULATED
JUDGMENT**


On September 4, 2009, Defendant and Counter-Claimant United States of America and Defendant Erin Magagna filed a document entitled, "Request for Assistance of Magistrate Judge to Resolve Parties Dispute Re Computation of Amount Due Per Amended Stipulated Judgement." (Dkt. #123.) On September 18, 2009, Judge Elizabeth D. Laporte, the presiding judge in this matter, issued an Order referring the Request to the undersigned for resolution and preparation of a report and recommendation. (Dkt. #128.) Having reviewed the Request and supporting materials, the undersigned now **ORDERS** as follows.

While Defendants are correct that ¶3 of the Amended Stipulated Judgment provides a mechanism for resolution of disputes concerning the calculation of back rent, after reviewing the Request and supporting materials, the undersigned finds that they do not adequately present the parties' dispute for resolution. In particular, while Mr. O'Connor's Declaration and the attached August 27 email from Mr. Rose give some indication as to the parties' points of contention over Defendants' calculations in Invoice 2, they do not sufficiently flesh out the parties' positions or provide any detailed explanation about how each party arrived at their calculations. As a result, the undersigned is unable to resolve the dispute as currently briefed. Accordingly, the undersigned **ORDERS** as follows:

1 If the dispute between the parties regarding the outstanding amounts due remains live,
2 particularly in light of the Plaintiffs' pending appeal to the Ninth Circuit, Defendants may file a brief
3 within 10 days of the filing date of this Order setting forth **in detail** Defendants' arguments
4 regarding the amounts they claim are due from Plaintiffs and **precisely how they calculated those**
5 **amounts**. Plaintiffs will then be permitted to file a response brief within 14 days after the filing of
6 Defendants' brief setting forth their positions and competing calculations. If, however, the parties
7 believe that the more prudent course would be to allow the Ninth Circuit to issue its ruling before
8 resolving the issue of outstanding back rent, the parties shall file a brief within 10 days of the filing
9 of this Order so indicating.

10 **IT IS SO ORDERED.**

11 Dated: December 1, 2009

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14 Maria-Elena James
15 Chief United States Magistrate Judge
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