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5 *Attorneys for Federal Plaintiffs and*
 6 *the Dungeness Crab Settlement Class*

7
 8 **UNITED STATES DISTRICT COURT FOR**
 9 **THE NORTHERN DISTRICT OF CALIFORNIA**

10
 11 Allen Loretz, individually and on behalf of all
 others similarly situated,

12 Plaintiffs,

13 v.

14 Regal Stone, Ltd., Hanjin Shipping, Co., Ltd.,
 15 Synergy Maritime, Ltd., Fleet Management
 Ltd., and John Cota, *In Personam*; M/V Cosco
 16 Busan, their engines, tackle, equipment,
 appurtenances, freights, and cargo *In Rem*,

17 Defendants.

Case No. C 07-5800 SC

STIPULATION AND
[PROPOSED] ORDER
REGARDING NON-SETTLED
CLAIMS

18
 19 WHEREAS, putative class actions have been filed on behalf of all commercial
 20 fishermen operating in the San Francisco Bay and surrounding ocean areas (“Putative Omnibus
 21 Commercial Fishermen Class”) against Defendants arising out of the Cosco Busan Oil Spill of
 22 November 7, 2007 (“CBOS”) in federal court and California State court (collectively
 23 “Actions”).

24 WHEREAS, the original federal putative class action complaint was filed on November
 25 15, 2007, as *Chelsea, LLC, et al. v. Regal Stone, Ltd., et al.*, No. 07-5800 and an amended
 26 Complaint was filed on November 19, 2007, alleging claims for damages and injunctive and
 27 declaratory relief against Defendants (“Federal Court Action”);

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1 WHEREAS, a state putative class action was filed on November 20, 2007, entitled
2 *Tarantino, et al. v. Hanjin Shipping*, alleging similar claims for damages and injunctive and
3 declaratory relief against substantially the same Defendants (“Related State Court Action”);

4 WHEREAS, the Parties have concluded a settlement that, finally and fully resolves and
5 dismisses with prejudice the claims of those class members, in both the Federal Court Action
6 and Related State Court Action, that arise out of class members’ activities as commercial
7 Dungeness Crab fishermen against Defendants (“Dungeness Crab Settlement”);

8 WHEREAS, on August 6, 2009, San Francisco Superior Court Judge John Munter
9 certified a commercial herring fishermen subclass (“Herring Subclass”) in the Related State
10 Court Action;

11 WHEREAS, on March 26, 2010, Judge Munter set a trial date of February 14, 2011 for
12 the Related State Court Action (“Trial Date”);

13 WHEREAS, counsel for plaintiffs in the Related State Court Action have represented
14 that, if appropriate, they intend to seek certification of the remainder of the Putative Omnibus
15 Commercial Fishermen Class prior to the Trial Date;

16 WHEREAS, the Parties desire to avoid unnecessary and inefficient duplication of
17 efforts in the Federal Court Action and Related State Court Action;

18 NOW, WHEREFORE, the Parties stipulate and agree:

- 19 1. That after entry of final approval by the Federal Court of the Dungeness Crab
20 Settlement, Plaintiffs will move to dismiss any and all claims remaining
21 in the Federal Court Action without prejudice to proceeding in the
22 Related State Court Action;
- 23 2. The dismissal shall be done without impacting any and all claims asserted by the
24 federal plaintiffs (other than those that arise out of class members’
25 activities as commercial Dungeness Crab fishermen which were
26 dismissed with prejudice in accordance with the Dungeness Crab
27 Settlement), and Plaintiffs may file an Amended Complaint in the
28 Related State Court Action asserting any claims that were previously

1 asserted and not settled in the Federal Court Action (“the Non-Settled
2 Claims”) and such claims and facts asserted in that Amended Complaint
3 shall be deemed to have been asserted as of the date of the filing of the
4 Federal Court Action. The dismissal of the Federal Court Action shall
5 not impact the Non-Settled Claims of the putative class members, by
6 application of potential statute of limitations or otherwise.

7 3. The parties agree that no consideration has been provided or will be provided to
8 obtain this dismissal of the Federal Court Action in favor of the Related
9 State Court Action.

10 IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be
11 executed on its behalf by its duly authorized counsel of record, all as of the day set forth below.

12 **AGREED:**

13 **PLAINTIFFS AND PLAINTIFFS’ CLASS COUNSEL IN THE ACTION**

14 Dated: April 9, 2010

AUDET & PARTNERS, LLP

15 /s/ William M. Audet

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*Counsel For Federal Court Plaintiff And Proposed
Class Counsel On Behalf Of Dungeness Crab
Settlement Class*

22 Dated: April 9, 2010

COTCHETT, PITRE & MCCARTHY

23 /s/ Frank M. Pitre

24 Frank M. Pitre
25 Stuart G. Gross
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1 PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED.

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DATED: _____, 2010

The Honorable Samuel Conti
United States District Judge