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5 Attorneys for Defendant and Third Party Plaintiff  
 Stark Investment Company, a  
 6 California general partnership

7  
 8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN FRANCISCO DIVISION

12 PALMTREE ACQUISITION  
 CORPORATION, a Delaware corporation,

Case No. CV 08 3168 MHP

13 Plaintiff,

14 vs.

**[PROPOSED ORDER] TO FILE FIRST  
 AMENDED THIRD PARTY COMPLAINT  
 [FRCP 15(a) & 21]**

15 MICHAEL R. NEELY, an individual;  
 16 PERRY J. NEELY, an individual; GARY  
 NEELY, an individual; MICHAEL R.  
 17 NEELY, PERRY J. NEELY and GARY  
 NEELY dba MIKE'S ONE HOUR  
 18 CLEANERS; CHARLES FREDERICK  
 HARTZ dba PAUL'S SPARKLE  
 19 CLEANERS; CHARLES F. HARTZ, an  
 individual; MULTIMATIC  
 20 CORPORATION, a New Jersey  
 corporation; WESTERN STATES  
 21 DESIGN, a California corporation;  
 MCCORDUCK PROPERTIES  
 22 LIVERMORE, LLC, a Delaware limited  
 liability company individually and as the  
 23 successor to JOHN MCCORMICK,  
 KATHLEEN MCCORDUCK, PAMELA  
 24 MCCORDUCK, SANDRA  
 MCCORDUCK MARONA, and IMA  
 25 FINANCIAL CORPORATION, a  
 California corporation; STARK  
 26 INVESTMENT COMPANY, a California  
 general partnership; GRUBB & ELLIS  
 27 REALTY INCOME TRUST,  
 LIQUIDATING TRUST, a California trust;  
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**Hon. Marilyn H. Patel**

1 and DOES 1-20, inclusive,  
2 Defendants.

3 THE KIRBERG CORPORATION,  
4 formerly known as MULTIMATIC  
5 CORPORATION, a New Jersey  
6 Corporation; and STARK INVESTMENT  
7 COMPANY, L.P., a California limited  
8 partnership,

9 Third-Party Plaintiffs,

10 v.

11 MELINDA ELLIS EVERS, Successor  
12 Trustee of the Harold A. Ellis, Jr.  
13 Revocable Inter Vivos Trust Dated July 13,  
14 2000; JAMES R. PROUD, an individual;  
15 DEAN BANKS, an individual; EMMETT  
16 R. DEMOSS JR., an individual; JOHN E.  
17 HYJER, an individual; THE ANDERSON  
18 MARITAL TRUST dated February 28,  
19 1979, as amended and restated August 31,  
20 1994; and THE ANDERSON TAX  
21 DEFERRAL TRUST, dated February 28,  
22 1979, as amended and restated August 31,  
23 1994,

24 Third-Party Defendants.

25 WHEREAS Third Party Plaintiffs, The Kirrberg Corporation and Stark Investment  
26 Company, L.P. desire to file a First Amended Third Party Complaint;

27 WHEREAS, Defendant Estate of Harold A. Ellis, Jr. is the only party that has  
28 appeared and does not oppose the filing of the First Amended Third Party Complaint;

THEREFORE, IT IS HEREBY STIPULATED by and between the attorneys for  
Third Party Plaintiffs and for Third Party Defendant Estate of Harold A. Ellis, Jr. that Third Party  
Plaintiffs be granted leave to file a First Amended Third Party Complaint, a copy of which is  
attached, on or before May 24, 2010.

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1 APPROVED AS TO FORM AND CONTENT:

2 Dated: May 24, 2010

DONGELL LAWRENCE FINNEY LLP

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By: /s/ Thomas F. Vandenburg  
Thomas F. Vandenburg  
Attorneys for Defendant and Third-Party Plaintiff  
THE KIRBERG CORPORATION, formerly  
known as MULTIMATIC CORPORATION, a New  
Jersey corporation

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9 Dated: May 24, 2010

GONSALVES & KOZACHENKO

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By: /s/ Selena P. Ontiveros  
Selena P. Ontiveros  
Attorneys for Defendant and Third-Party Plaintiff  
Start Investment Company, a California general  
partnership

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15 Dated: May 24, 2010

STEIN & LUBIN LLP

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By: /s/ Jonathan E. Sommer  
Jonathan E. Sommer  
Attorneys for Defendant  
Estate of Harold A. Ellis, Jr.

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**IT IS SO ORDERED.**

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23 Dated: 5/25/2010



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1 **Re: Palmtree Acquisition v. Michael R. Neely, et al.**  
2 **United States District Court, Case No. CV 08-3168 MHP**

3 **PROOF OF SERVICE—ELECTRONIC TRANSMISSION**

4 STATE OF CALIFORNIA/COUNTY OF LOS ANGELES

5 I am a citizen of the United States and am employed in the County of Los Angeles,  
6 State of California. I am over the age of 18 and not a party to the within action; my business  
7 address is DONGELL LAWRENCE FINNEY LLP, 707 Wilshire Boulevard, 45th Floor, Los  
8 Angeles, CA 90017-3609.

9 On the date set forth below, I electronically served the document described below  
10 via the United States District Court-Northern District's ECF, on the recipients designated on the  
11 Transaction Receipt located on the Court's website.

12 **[PROPOSED ORDER] TO FILE FIRST AMENDED THIRD PARTY COMPLAINT**  
13 **[FRCP 15(a) & 21]**

14 On the following parties:

15 SEE SERVICE LIST PROVIDED BY THE COURT'S ECF WEBSITE

16 I declare under penalty of perjury under the laws of the State of California that the  
17 foregoing is true and correct and that I am employed in the office of a member of the bar of this  
18 court, at whose direction the service was made.

19 Executed on May 24, 2010, at Los Angeles, California.

20 /s/ Sheryl R. Douglas  
21 Sheryl R. Douglas