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6 Attorneys for Plaintiff and Counterclaim-
 Defendant Bialla & Associates, Inc.

Attorneys for Defendant and Counterclaim-
 Plaintiff Sears Holdings Management
 Corporation, erroneously sued as Sears
 Holdings, Inc.

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA

12 BIALLA & ASSOCIATES, INC.,
 13 Plaintiff,
 14 v.
 15 SEARS HOLDINGS, INC. AND DOES 1
 THROUGH 10, INCLUSIVE,
 16 Defendant.
 17
 18 AND RELATED COUNTERCLAIMS.

Case No. 08-03529 MMC
**STIPULATION AND ~~PROPOSED~~
 ORDER DISMISSING COMPLAINT AND
 COUNTERCLAIMS WITH PREJUDICE**

FENWICK & WEST LLP
 ATTORNEYS AT LAW
 SAN FRANCISCO

1 Pursuant to the Parties' agreement, Plaintiff and Counterclaim-defendant Bialla &
2 Associates, Inc. ("Bialla"), on the one hand, and Defendants and Counterclaim-plaintiff Sears
3 Holdings Management Corporation, erroneously sued as Sears Holdings, Inc. ("Sears"), on the
4 other hand, by and through their respective counsel of record, hereby stipulate and agree pursuant
5 to Fed. R. Civ. P. 41(a) that the above-captioned action, including all claims and counterclaims
6 therein, is hereby dismissed with prejudice, with each party to bear its own expenses, costs, and
7 attorneys' fees.

8 Dated: December 30, 2008

FENWICK & WEST LLP

9
10 By: /s/ Jennifer L. Kelly

Jennifer L. Kelly

11
12 Attorneys for Plaintiff and Counterclaim-
defendant Bialla & Associates, Inc.

13 Dated: December 30, 2008

GLYNN & FINLEY LLP

14
15 By: /s/ Clement L. Glynn

Clement L. Glynn

16
17 Attorneys for Defendant and Counterclaim-
18 plaintiff Sears Holdings Management
Corporation, sued as Sears Holdings, Inc.

19 **ATTESTATION PURSUANT TO GENERAL ORDER 45**

20 I, Jennifer L Kelly, attest that concurrence in the filing of this document has been obtained
21 from any signatories indicated by a "conformed" signature (/s/) within this e-filed document.

22 I declare under penalty of perjury under the laws of the United States of America that the
23 foregoing is true and correct.

24 Dated: December 30, 2008

FENWICK & WEST LLP

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26 By: /s/ Jennifer L. Kelly

Jennifer L. Kelly

27 Attorneys for Plaintiff Bialla & Associates, Inc.
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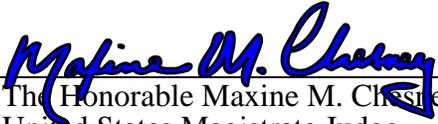
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**~~PROPOSED~~ ORDER DISMISSING COMPLAINT AND
COUNTERCLAIMS WITH PREJUDICE**

The parties having so stipulated, IT IS ORDERED that the above-captioned action, including all claims and counter-claims therein, is hereby dismissed with prejudice, with each party to bear its own expenses, costs, and attorneys' fees.

IT IS SO ORDERED.

January 5, 2009
Dated: ~~December~~ _____, 2008

By: 
The Honorable Maxine M. Chesley
United States Magistrate Judge

FENWICK & WEST LLP
ATTORNEYS AT LAW
SAN FRANCISCO