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 Third Party Plaintiff CITY OF EUREKA  
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9 **IN THE UNITED STATES DISTRICT COURT**  
 10 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

12	KFD ENTERPRISES, INC., a California Corporation dba Norman’s Dry Cleaner,	)	CASE NO. CV-08-4571 MMC
13	Plaintiff,	)	<del>STIPULATION AND PROPOSED</del>
14	v.	)	ORDER FOR KFD’S PRODUCTION OF
15	CITY OF EUREKA,	)	DOCUMENTS, DEPOSITION OF
16	Defendant.	)	KENNETH DAER AND FILING
17	_____	)	AMENDED THIRD-PARTY
18	And related counter and cross claims.	)	COMPLAINT NAMING KENNETH
19	_____	)	DAER BY DEFENDANT CITY OF
		)	EUREKA

20 Defendant, Third-Party Plaintiff City of Eureka and Plaintiff KFD Enterprises Inc.  
 21 (“KFD”) stipulate as follows:

22 Whereas the Court has set a deadline of April 30, 2010 for the City of Eureka to name  
 23 additional parties in its Third-Party Complaint;

24 Whereas Kenneth Daer is already a party to the litigation and is named by the City’s  
 25 third-party complaint under the City’s CERCLA cause of action and the City seeks evidence to  
 26 name him as a defendant under other causes of action;

27 Whereas, naming Mr. Daer for these additional causes of action after April 30, 2010  
 28 will not cause any delay in the litigation;



1           Whereas the City of Eureka propounded requests for production of documents to KFD  
2 on February 12, 2010, and KFD served objections to the requests on March 17, 2010 and did not  
3 produce any documents;

4           Whereas the parties are continuing to meet and confer on the City of Eureka's requests  
5 but have not resolved their dispute on the requests;

6           Whereas the City of Eureka had requested that Mr. Daer to appear for deposition the  
7 week of April 19, 2010, but KFD's counsel states that he is unavailable for the entire month of  
8 April 2010 because he is participating in depositions in another case;

9           Whereas the City of Eureka requires the production of KFD's documents and the  
10 deposition of Mr. Daer for the purpose of obtaining facts to support allegations naming Mr.  
11 Daer under the City of Eureka's fourth through eleventh causes of action in the City of Eureka's  
12 Third-Party Complaint;

13           Whereas the parties have continued to meet in good faith to resolve the City of Eureka's  
14 requests, determining the scope of Mr. Daer's deposition and setting a specific date for Mr.  
15 Daer's deposition;

16           Whereas the parties do not want to burden the Court with a motion to compel KFD to  
17 produce documents and to produce Mr. Daer for deposition and a motion to extend the deadline  
18 for the City of Eureka to name Mr. Daer;

19           Whereas the City of Eureka and KFD need additional time to seek to resolve these  
20 disputes without the Court's intervention;

21           Therefore, the City of Eureka and KFD stipulate to each of the following:

22           (1) The City of Eureka shall have until August 31, 2010 to name Kenneth Daer in his  
23 individual capacity for certain causes of action in the City of Eureka's Third-Party Complaint or  
24 subsequently amended Third-Party Complaint;

25           (2) Mr. Daer will be produced for deposition to the City during a time period 7 days  
26 after KFD's final production of documents to the City of Eureka's second set of document  
27 requests and 7 days before the August 31, 2010 deadline to bring additional claims naming Mr.  
28 Daer before the August 31, 2010 deadline to name Mr. Daer;

1 (3) If the City of Eureka and KFD cannot agree on a date for Mr. Daer's deposition to  
2 be taken during the aforementioned time period, the City of Eureka may file a motion to set a  
3 specific date for deposition and to extend the August 31, 2010 deadline if necessary to complete  
4 the deposition, without the need of any further meet and confer in light of the parties previous  
5 meet and confer efforts;

6 (4) The City of Eureka will have in its possession KFD's written responses and KFD's  
7 responsive documents to the City of Eureka's second set of production of documents no later  
8 than May 21, 2010; KFD shall produce all documents and responses in accordance with the  
9 Federal Rules of Civil Procedure and related case law;

10 (5) If the City of Eureka believes that KFD's responses to the City of Eureka's requests  
11 are incomplete or KFD's production of documents is incomplete, the City of Eureka may file a  
12 motion to compel without the need for further meet and confer since the City of Eureka and KFD  
13 have already met and conferred extensively on these requests.

14  
15 DATED: April 14, 2010

DAVIDOVITZ & BENNETT LLP

16  
17 By:

18 /s/  
19 MORIS DAVIDOVITZ  
20 CHARLES BOLCOM  
21 Attorneys for DEFENDANT AND  
22 THIRD-PARTY PLAINTIFF CITY OF  
23 EUREKA

(The filer hereby attests that concurrence in the filing of this document has been obtained from the signatory below.)

24 DATED: April 14, 2010

GREBEN & ASSOCIATES


25  
26 By:

27 /s/  
28 JAN GREBEN  
Attorneys for PLAINTIFF KFD  
ENTERPRISES INC.

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: April 19, 2010

  
MAXINE M. CHESNEY  
UNITED STATES DISTRICT JUDGE