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12 Attorneys for Plaintiffs
13 KANDY KYRIACOU and OJOMA OMAGA

14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

17 **KANDY KYRIACOU and OJOMA
OMAGA,**

18 **Plaintiffs,**

19 **v.**

20 **PERALTA COMMUNITY COLLEGE
DISTRICT; KERRY COMPTON, as Vice
21 President of Student Services at College of
Alameda; DEREK PIAZZA, as instructor
22 of Apparel Design & Merchandising at
College of Alameda; and PETER SIMON,
23 as Division I Dean at College of Alameda.**

24 **Defendants.**

Case No. [3:08-cv-4630-SI](#)

**STIPULATION [& ORDER] TO
CONTINUE HEARING ON
DEFENDANTS' 12(b)(6) MOTION TO
DISMISS AND CASE MANAGEMENT
CONFERENCE; DECLARATION OF
CHRISTOPHER SCHWEICKERT PER
L.R. 6-2(a)**

Courtroom: 10 (19th Floor)
Judge: Honorable Susan Illston

25 Under Local Rules 6-1(b) and 6-2, THE PARTIES HEREBY STIPULATE:

- 26 1. To continue the hearing on Defendants' 12(b)(6) Motion to Dismiss from Friday,
27 March 6, 2009 at 9:00 a.m. to **Friday, March 13, 2009 at 9:00 a.m.** (or the first
28 available date thereafter, excluding March 20 and 27, 2009).

2. To continue the Case Management Conference from Friday, March 6, 2009, at ~~2:30~~
p.m. to **Friday, April 3, 2009** (or the first available date thereafter).

Per Local Rule 6-2(a), a declaration in support of this request is attached as Exhibit A
hereto.

Respectfully submitted,

Dated: February 20, 2009

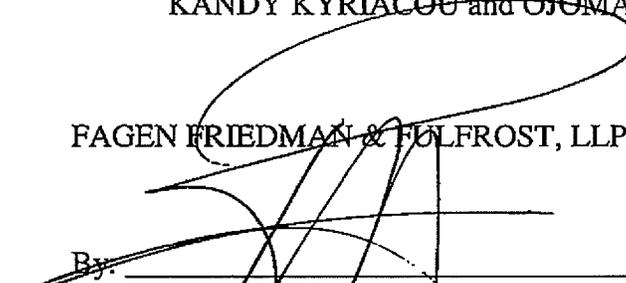
BERGQUIST, WOOD & ANDERSON, LLP

By: 

Steven N.H. Wood, Esq.
Christopher J. Schweickert, Esq.
Attorneys for Plaintiffs
KANDY KYRIACOU and OJOMA OMAGA

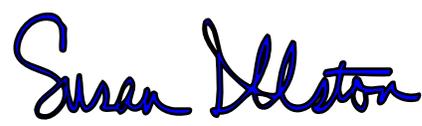
Dated: February 20, 2009

FAGEN FRIEDMAN & FULFROST, LLP

By: 

Roy A. Combs, Esq.
Gretchen M. Shipley, Esq.
Attorneys for Defendants
Peralta Community College District, Kerry
Compton, Derek Piazza, and Peter Simon

PURSUANT TO STIPULATION, IT IS SO ORDERED.



Dated: February ____, 2009

By: _____
THE HONORABLE SUSAN ILLSTON

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EXHIBIT A

DECLARATION OF CHRISTOPHER SCHWEICKERT PER L.R. 6-2(a)

I, Christopher J. Schweickert, declare:

I work for Bergquist, Wood & Anderson, LLP, counsel of record for Plaintiffs Kandy Kyriacou and Ojoma Omega, upon whose behalf I make this declaration. If called as a witness I would competently testify to the following facts, all of which are within my personal knowledge:

1. This declaration is filed per Local Rule 6-2(a) to explain the parties' stipulated request for an order continuing the present March 6, 2009 hearing date for Defendants' 12(b)(6) Motion to Dismiss and the Case Management Conference (CMC).

2. All previous time modifications in this case are as follows:

- a. 10/27/2008 stipulation to extend Defendants' time to answer (Doc. #4).
- b. 12/17/2008 continuance of initial CMC to 2/20/2009 (Docs. #7, 8).
- c. 2/13/2009 stipulation by parties to postpone initial disclosures to 3/20/2009 (in Rule 26(f) report, Doc. #19).
- d. 2/18/2009 continuance of initial CMC to 3/6/2009 (Doc. #22) (one week after the 12(b)(6) hearing).
- e. Stipulation (2/19/2009, Doc. #23) and order (2/20/2009, Doc. #24) to extend time for Defendants' 12(b)(6) reply.
- f. 2/19/2009 continuance of 12(b)(6) hearing to 3/6/2009 (Doc. #24).

3. Defendants' deadline to file a reply brief for their 12(b)(6) motion to dismiss was inadvertently listed as February 20, 2009 on the Joint Case Management Statement filed February 13, 2008 (Document # 20). Per L.R. 7-3(c), it should have been listed as February 13.

4. On information and belief, upon realizing the error, Defendants' counsel requested additional time to file their reply brief for their 12(b)(6) Motion to Dismiss. On information and belief lead counsel for Plaintiffs Steven N. H. Wood, Esq. agreed to extend that time to reply, and at the same time proposed the motion hearing be continued so as not to jam the Court; and also specified that March 6 was unavailable for the hearing.

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1 5. Defense counsel presented a stipulation that addressed only the reply brief, not the
2 hearing dates. We so stipulated, based on the understanding that the hearing dates would also be
3 continued appropriately.

4 6. On information and belief, on February 20, 2009, the Court reviewed the February 19,
5 2009 stipulation (Doc. # 23), and continued the 12(b)(6) hearing to March 6, 2009 (Doc. # 24).

6 7. On information and belief, Attorney Wood is out of town and unavailable on March 6.
7 I am also out of town that day. We are available at any time on Friday, March 13, Friday, April 3,
8 and any April Friday thereafter.

9 8. Accordingly, the parties have stipulated to have the **12(b)(6) hearing on Friday,**
10 **March 13, 2009** or the next available date (other than March 20 or 27), and the **Case**
11 **Management Conference on Friday, April 3, 2009** or the next available date thereafter. We
12 respectfully request that the Court order these continuances.

13 9. These continuances are expected to have no substantial effect on the schedule for this
14 case.

15 I, Christopher Schweickert, a citizen of the United States and resident of the State of
16 California, hereby declare under penalty of perjury under the laws of the State of California and
17 pursuant to 28 U.S.C. § 1746 that I have read the above declaration and the facts are true and
18 correct (except as to those matters stated on information and belief, and as to those matters I
19 believe it to be true).

20 Executed February 20, 2009.

21 By: 
22 Christopher J. Schweickert, Esq.

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